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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT**

**Concluding observations of the Committee on
Economic, Social and Cultural Rights**

Venezuela

1. The Committee on Economic, Social and Cultural Rights considered the second periodic report of Venezuela on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/1990/6/Add.19) at its 3rd, 4th and 5th meetings (E/C.12/2001/SR.3-5), held on 24 and 25 April 2001, and adopted, at its 23rd meeting (E/C.12/2001/SR.23), held on 8 May 2001, the following concluding observations.

A. Introduction

2. The Committee notes with satisfaction the presence of a large and high-level delegation and the cooperative spirit with which the delegation approached the constructive dialogue with the Committee. However, the Committee regrets the 10-year delay in the submission of the second periodic report as well as the delay in the submission of the written replies to the Committee's list of issues. In addition, the Committee regrets that many questions put to the delegation received general, incomplete or vague answers.

B. Positive aspects

3. The Committee welcomes the adoption of the new 1999 Constitution, which incorporates a wide range of human rights, including a number of the economic, social and cultural rights enshrined in the Covenant, and the fact that article 23 of the Constitutional accords international human rights instruments, to which Venezuela is a party.
4. The Committee notes with appreciation the establishment of the National Plan of Action for Human Rights of 1997, and the establishment of a national anti-poverty programme.
5. The Committee notes with satisfaction the establishment of an independent Ombudsman's Office.
6. The Committee notes with appreciation the adoption in September 1998 of the Violence against Women and the Family Act and the Equal Opportunities for Women Act and the recent establishment of the autonomous National Women's Institution that will, among other things, gather statistics on the situation of women in Venezuela.

C. Factors and difficulties impeding the implementation of the Covenant

7. The Committee notes the severe floods suffered by Venezuela in 1999 and acknowledges the impact they have had on the capacity of the State party in guaranteeing the implementation of economic, social and cultural rights.
8. The Committee further notes that the recent economic recession and the adverse effects of structural adjustment programmes undergone by Venezuela in the past 10 years have restricted the ability of the State party to comply with its obligations under the Covenant.

D. Principal subjects of concern

9. The Committee is concerned at the State party's slowness in implementing its own National Plan of Action for Human Rights and the Venezuelan society at large lacks awareness about rights enshrined in the Covenant.
10. The Committee is concerned that the Ombudsman's Office does not place adequate emphasis on the monitoring of the enjoyment of economic, social and cultural rights by the citizens of Venezuela, especially by the indigenous people, and that there is no case law relating directly to the provisions of the International Covenant on Economic, Social and Cultural Rights.
11. The Committee is concerned that the non-issue of personal documentation to refugees and asylum-seekers by the State authorities seriously hinders their enjoyment of economic, social and cultural rights, including the rights to work, health and education. This situation prompted a decision by the Inter-American Commission on Human Rights in March 2001 ordering protective measures for 287 Colombian refugees.
12. The Committee deplores the discrimination against indigenous people, particularly with regard to access to land ownership, housing, health services and sanitation, education, work and

adequate nutrition. The Committee is particularly concerned about the adverse effects of the economic activities connected with the exploitation of natural resources, such as mining in the Imataca Forest Reserve and coal-mining in the Sierra de Perijá, on the health, living environment and way of life of the indigenous populations living in these regions.

13. The Committee regrets the inadequacy of the information provided with regard to articles 6 and 7 of the Covenant. The Committee is concerned at the high rate of unemployment and lack of job security for workers as hiring practices become more flexible, driving many workers into the informal sector.

14. Despite the stipulations in article 91 of the Constitution establishing the right of everyone to sufficient wages to support a worker and his family, and by which minimum wages are adjusted every year, the Committee is concerned that the minimum wage is still far short of meeting workers' basic requirements, and that there are disparities between urban and rural wages.

15. The Committee is concerned that following the national referendum of December 2000 on trade union reorganization, the entire leadership of the country's union federations and confederations was dismissed whereas only union members can elect or remove their leaders.

16. The Committee is alarmed about the high rate of domestic violence and the extent of child prostitution and trafficking in children, and regrets the lack of available statistics on the number of street children. The Committee is deeply concerned about the extent of the sex trade involving children and the inability of the State party to address these issues.

17. The Committee is deeply concerned that the efforts of the State party to improve the situation of its people are inadequate, and that there is still an alarmingly high level of poverty in Venezuela, especially among the indigenous peoples, and that economic, social and cultural rights are not integrated into the Government's anti-poverty programme.

E. Suggestions and recommendations

18. The Committee recommends that the State party seek advisory services from the Office of the United Nations High Commissioner for Human Rights concerning the overall implementation of the 1997 National Plan of Action for Human Rights, and in particular the inclusion of economic, social and cultural rights of the Plan.

19. The Committee urges the State party to organize an awareness-raising campaign to educate the public at large on their economic, social and cultural rights, and to target in particular magistrates, police officers and other responsible officials.

20. The Committee encourages the State party to proceed with the adoption of the Act establishing the Ombudsman's Office and urges the Ombudsman to attend closely to the promotion and protection of economic, social and cultural rights, in particular with respect to indigenous communities.

21. The Committee encourages the State party to ratify the 1951 Convention relating to the Status of Refugees, the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. The Committee recommends that the State party issue personal documentation to asylum-seekers in order to enable them to enjoy their basic rights under the Covenant and to apply the protective measures recommended in March 2001 by the Inter-American Commission on Human Rights.

22. The Committee requests the State party to provide, in its next periodic report, detailed information on the situation of indigenous peoples and on the efforts, if any, by the Government to acknowledge the specific economic, social and cultural rights of the indigenous people as a distinct minority group and to improve their situation, in particular in the Imataca Forest Reserve and the Sierra de Perijá.

23. The Committee requests the State party to provide, in its next period report, more detailed information relating to articles 6 and 7 of the Covenant, including in particular an account of the role of labour inspectors, and urges the State party to implement the 1986 Health and Safety Act, which determines safe and healthy conditions of work.

24. The Committee recommends that the State party take effective action to reduce the unemployment rate by inter alia, providing training for young people and protection against unwarranted dismissal for workers, and by conducting regular reviews of the minimum wage levels to enable workers to attain an adequate standard of living for themselves and their families.

25. The Committee calls on the State party to comply with the recommendation of the International Labour Organization requesting the revocation of the results of the referendum on trade union reorganization and to refrain from making hostile declarations against independent trade union federations. It also recommends that the bill in preparation afford all workers trade union freedoms as required by article 8 of the Covenant.

26. The Committee invites the State party to provide, in its next periodic report, updated statistics on the situation of women in Venezuela, in particular on the phenomenon of domestic violence, as well as on the status of implementation of the newly adopted law on domestic violence. The Committee urges the State party to take more effective measures to combat domestic violence against women and children.

27. The Committee urges the State party to indicate, in its next periodic report, the problem of the measures it has undertaken to address the problem of street children and, in particular, the problem of their sexual exploitation.

28. The Committee urges the State party to seek international technical assistance in the implementation of its anti-poverty programme.

29. The Committee requests the State party to provide, in its next periodic report, detailed information about the functioning of the social security system, the privatization of the health-care system and the integration of vulnerable groups, including indigenous people, into the health-care system.

30. The Committee recommends that the State party implement, with the assistance of the United Nations Educational, Scientific and Cultural Organization, a comprehensive National Education for All Plan as required by the Dakar Framework for Action, and to reflect in the Plan articles 13 and 14 of the Covenant and the Committee's General Comments 11 and 13.

31. The Committee urges the State party to develop a more elaborate system of national statistics on all the rights enshrined in the Covenant. In particular, the Committee requests the State party to provide, in its next periodic report, information including relevant statistics on the incidence of violence, the general housing situation, forced evictions, and on the status of land reform in Venezuela. The Committee further recommends that the State party provide information on the steps taken in these respects.

32. The Committee requests that the State party disseminate these concluding observations as widely as possible among the State institutions concerned, as well as its citizens.

33. The Committee requests the State party to address, in its third periodic report, the implementation of these concluding observations.

34. The Committee requests the State party to submit its third periodic report by 30 June 2006.



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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLES 16 AND 17 OF THE COVENANT**

**Concluding observations of the Committee on
Economic, Social and Cultural Rights**

Honduras

1. The Committee on Economic, Social and Cultural Rights considered the initial report of Honduras on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/1990/5/Add.40) at its 5th, 6th and 7th meetings (E/C.12/2001/SR.5-7), held on 25 and 26 April 2001, and adopted, at its 25th meeting (E/C.12/2001/SR.25) held on 9 May 2001, the following concluding observations.

A. Introduction

2. The Committee welcomes the initial report of the State party, which was in general prepared in conformity with the Committee's guidelines, although submitted after many years' delay. The Committee welcomes in particular the open and frank nature of the constructive dialogue with the delegation and its willingness to answer the questions posed by the Committee.

B. Positive Aspects

3. The Committee notes with satisfaction the assertion by the State party that the Covenant is part of national law and that it can be invoked before a court of law, although the delegation was not able to provide any examples of case law.

4. The Committee also notes with appreciation the State party's declaration of its support for an optional protocol to the Covenant.

5. The Committee takes note with satisfaction of the establishment of institutions, such as the *Fiscalías Especiales de Derechos Humanos*, the *Instituto Nacional de la Mujer*, the *Consejerías de la Familia* and the *Ombudsman*, and the adoption of important laws in the field of human rights, such as the *Ley de Igualdad de Oportunidades entre el Hombre y la Mujer*, the *Ley contra la Violencia Doméstica* and the *Ley sobre la Salud Reproductiva*.

6. The Committee takes note with appreciation of the family subsidy programmes that are intended to benefit the poorest and most vulnerable groups of the population, in particular children under five years of age, pregnant women and nursing mothers, and elderly persons.

7. The Committee also notes with appreciation that the percentage of the national budget allocated to education has increased continuously in the period 1996-2001 (from 12.95 per cent to 22.76 per cent).

8. The Committee notes with satisfaction that during the period 1996-2000, 345 basic education centres were created in the 18 regions of the country.

C. Factors and difficulties impeding the implementation of the Covenant

9. The Committee takes note that the efforts of the State party to comply with its obligations under the Covenant are impeded by the fact that it is classified as a highly indebted poor country and that up to 40 per cent of its annual national budget is allocated to foreign debt servicing.

10. The Committee also acknowledges that the structural adjustment policies in the State party have negatively affected the enjoyment of economic, social and cultural rights by the population, especially the vulnerable and marginalized groups of society.

11. The Committee notes that the serious problem of poverty in the State party has been aggravated by the devastating effects of hurricane Mitch in October 1998 on the infrastructure and productive sectors, and that the State party is still in the process of recovering.

D. Principle subjects of concern

12. The Committee is concerned about the lack of adequate human rights training in the State party, in particular the rights guaranteed in the Covenant and in the Constitution, especially among the judiciary and other actors responsible for the implementation of the Covenant.

13. The Committee expresses its concern about the de facto inequality that exists between men and women in Honduran society - despite legislative guarantees of equality - which is particularly reflected in unequal wages for equal work, and the low-level of representation of women in public services and administration.

14. The Committee is concerned about the persisting discrimination against indigenous populations, especially in the field of employment, and the protection of traditional ancestral and agricultural lands.

15. The Committee is concerned about the lack of legislative and administrative measures by the State party to control the negative effects of transnational companies' activities on the employment and working conditions of Honduran workers and to ensure compliance with national labour legislation. Examples of such negative impacts are the low level of wages and the substandard working conditions in the *maquilas* (assembly plants), in particular those employing primarily women workers.

16. The Committee is particularly concerned about the very low number of labour inspectors and their inability to fulfil their responsibilities adequately due to reported restrictions that limit their access to enterprises and other work places subject to inspection.

17. The Committee expresses its grave concern about the fact that the minimum wage of workers is insufficient to provide for an adequate standard of living in the State party.

18. The Committee is also concerned about the insufficient level of protection by the State party to trade unions seeking to conduct labour negotiations with foreign employers, particularly given the large number of workers in unions. In addition, the Committee deeply regrets that the law prohibits the presence of more than one trade union in a single enterprise.

19. The Committee expresses its concern about the fact that the social security system covers less than one third of the population, especially as it excludes the groups in society with no income at all. In this regard, the Committee is concerned about the fact that the State party has not ratified the relevant International Labour Organization Conventions concerning social security (Nos. 102, 117 and 118).

20. The Committee is alarmed about the high number of children who are forced to work to support themselves, and in particular about the serious situation of street children and the existence of street gangs (*maras*). In this regard, the Committee is also gravely concerned about the high incidence of sexual abuse, exploitation and prostitution of children in the State party, and about the lack of a national plan to address these issues.

21. The Committee expresses its concern about the extent of domestic violence and the apparent inability of the State party to implement legislation against this phenomenon, particularly due to the lack of appropriate training of police and other law enforcement officials.

22. The Committee regrets the lack of a national housing strategy, given damage caused to the infrastructural situation by hurricane Mitch.

23. The Committee is concerned about the occurrence of forced evictions, especially among peasants and indigenous populations and in the areas where mining activities are conducted, without adequate compensation or appropriate relocation measures.

24. The Committee is particularly concerned about the extremely negative effects of the use of pollutants and toxic substances in specific agricultural and industrial sectors, such as banana

growing and gold-mining, on the environment, thereby putting at risk the health and lives of workers and those living in the vicinity of the affected areas. In this regard, the Committee is also concerned that environmental impact studies conducted by or on behalf of those sectors are without effective review by independent bodies.

25. The Committee deeply regrets the lack of measures by the State party to address effectively the problem of excessive deforestation, which negatively affects the habitat of indigenous populations.

26. The Committee is concerned about the insufficiency of medical services, especially in rural areas, and the difficulties experienced by people in gaining access to health care institutions. The Committee also expresses its deep concern about the high incidence of HIV/AIDS in the State party, which is among the highest in the region, and the inadequate information provided by the State party on the measures it has taken with regard to the provision of essential drugs.

27. The Committee also expresses its concern about the problems encountered by the State party in its efforts to implement its reproductive health policy, including the distribution and use of condoms, as a result of resistance by certain religious institutions, and the fact that educational programmes often only target women. In this regard, the Committee is also concerned about the high rate of teenage pregnancy and that those girls are deprived of the opportunity to continue their education.

28. The Committee regrets the high rate of illiteracy of 19.5 per cent recognized by the State party's delegation.

29. The Committee expresses its concern about the limited possibilities for indigenous peoples to be educated and to have access to the judicial system in their native languages.

E. Suggestions and recommendations

30. The Committee strongly urges the State party to ensure that the Covenant is taken into account in the formulation and implementation of all policies concerning economic, social and cultural rights.

31. The Committee recommends that the State party improve human rights training programmes in such a way as to ensure better knowledge, awareness and application of the Covenant and other international human rights instruments, in particular among the judiciary, law enforcement officials and other actors responsible for the implementation of the Covenant.

32. The Committee urges the State party to implement existing legislation more vigorously and to incorporate a gender perspective in legislation, with a view to ensuring greater equality of men and women, especially in the areas of employment, labour conditions, and representation in public services and administration.

33. The Committee recommends that the State party recognize the economic, social and cultural rights of indigenous populations as a distinct minority group and ensure more effective protection against discrimination, especially in the field of employment, health and education.
34. The Committee also recommends that the State party explicitly take the Covenant into account in relation to the policies, programmes and projects deriving from its Poverty Reduction Strategy Paper, which forms part of the enhanced Highly Indebted Poor Countries Initiative. In this regard, the State party is referred to the statement on poverty adopted by the Committee on 4 May 2001.
35. The Committee urges the State party to conclude its adoption of the Labour Code.
36. The Committee strongly recommends that the State party implement existing legislative and administrative measures to avoid violations of environmental and labour laws by transnational companies.
37. The Committee urges the State party to increase the number of its labour inspectors, and to ensure the full exercise of their authority in workplaces.
38. The Committee strongly urges the State party to adopt and implement legislative and other measures to protect workers from the occupational health hazards resulting from the use of toxic substances - such as pesticides and cyanide - in the banana-growing and gold-mining industries.
39. The Committee strongly recommends that the State party expand its social security system to encompass low-income groups and informal sector groups, which are presently excluded. In addition, the Committee recommends that the State party ratify the relevant ILO Conventions (Nos. 102, 117 and 118) concerning social security.
40. The Committee urges the State party to undertake urgent measures to introduce rehabilitation programmes for street children. The Committee also urges the State party to address the issue of sexual abuse, exploitation and prostitution of children by adopting a national plan to combat the problem, including collecting relevant data and conducting a thorough study of the issue.
41. The Committee strongly recommends that the State party implement the existing legislation on domestic violence vigorously, and that police and other law enforcement officials be given better training to this end.
42. The Committee recommends that the minimum wage be determined on the basis of criteria of an adequate standard of living in the State party.
43. The Committee requests that, in its next periodic report, the State party provide information on a national housing strategy and on the progress made in providing adequate housing for all, especially low-income groups, vulnerable and marginalized groups and those

who suffered losses as a result of hurricane Mitch. The Committee also recommends that the State party take all appropriate measures to address the problems of forced evictions and homelessness.

44. The Committee recommends that the State party review its legislation and adopt all appropriate measures with a view to continuing agrarian reform and addressing land tenure issues, in such a manner as to take account of the needs of the *campesinos* and of the land rights of indigenous populations.

45. Given that mining concessions may have a significant impact on the enjoyment of article 12 and other provisions of the Covenant, the Committee recommends that applications for mining concessions be publicized in all the localities where the mining will take place, and that opposition to such applications be allowed within three months (not 15 days) of their publication in the relevant locality, in accordance with principles of procedural fairness.

46. The Committee urges the State party to adopt immediate measures to counter the negative environmental and health impacts of the use of pollutants and toxic substances in specific agricultural and industrial sectors, such as banana growing and gold mining. In this regard, the Committee recommends that the State party establish a mechanism by which it can review effectively the environmental impact studies conducted by or on behalf of these sectors.

47. The Committee urges the State party to undertake effective measures to address the high level of persons living with HIV/AIDS, and in particular facilitate access to essential drugs, and to seek international cooperation to this effect.

48. The Committee recommends that the State party continue to implement its reproductive health policy, with a particular focus on young persons, and that it develop training programmes and counselling services in this regard for both men and women.

49. The Committee requests that the State party, in its next periodic report, provide detailed information about mentally disabled persons, including a summary of the legal regime governing those in compulsory care and the measures that are in place to ensure their protection.

50. The State party is urged to adopt a comprehensive national plan for Education for All, as anticipated by paragraph 16 of the Dakar Framework for Action. When formulating and implementing its plan, the State party is urged to take into account the Committee's General Comments 11 and 13 and to establish an effective monitoring system for the plan. The State party is also encouraged to seek technical advice and assistance from the United Nations Educational, Scientific and Cultural Organization in relation to both the formulation and implementation of its plan.

51. The Committee requests that the State party, in its next periodic report, provide updated statistical information on the rate of illiteracy, as well as information on the measures taken by the State party to combat illiteracy and the results of these measures.

52. The Committee recommends that the State party undertake measures to ensure that indigenous populations are able to be educated and to have access to the judicial system in their own languages.

53. The Committee recommends that the State party avail itself more actively of technical assistance and cooperation from the Office of the United Nations High Commissioner for Human Rights and the relevant United Nations specialized agencies and programmes, particularly in the preparation of its second periodic report to the Committee.

54. The Committee requests the State party to disseminate its concluding observations widely among all levels of society and to inform the Committee on all steps taken to implement them. It also encourages the State party to consult with non-governmental organizations and other members of civil society in the preparation of the second periodic report.

55. Finally, the Committee requests the State party to submit its second periodic report by 30 June 2006, and to include in this report detailed information on the steps it has undertaken to implement the recommendations contained in the present concluding observations.



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CHINA: HONG KONG SPECIAL ADMINISTRATIVE REGION

1. The Committee considered on Economic, Social and Cultural rights the initial report submitted by China on articles 1 to 15 of the Covenant as applied in the Hong Kong Special Administrative Region (HKSAR) (E/1990/5/Add.43) at its 9th, 10th and 11th meetings (E/C.12/2001/SR.9-11), held on 27 and 30 April, and adopted, at its 29th meeting (E/C.12/2001/SR.24), held on 11 May 2001, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the well-prepared and detailed initial report, which conforms in general with the Committee's guidelines on reporting. The Committee also notes with appreciation the written replies to its list of issues and the additional statistics provided by HKSAR. The delegation's professionalism and openness contributed to a fruitful and constructive dialogue.

B. Positive aspects

3. The Committee warmly welcomes the ratification of the Covenant by China.
4. The Committee warmly welcomes the withdrawal by HKSAR of reservations to articles 1 and 7 of the Covenant.
5. The Committee welcomes the wide consultations undertaken by HKSAR with civil society organizations and other interested parties as part of the preparation of its initial report. The Committee notes with appreciation that HKSAR made available to the public at large copies of the report.
6. The Committee commends HKSAR for its efforts to provide adequate housing for Hong Kong residents. In particular, the Committee notes with appreciation that:
 - (a) The old temporary housing accommodations have been demolished and their occupants adequately housed in interim housing while waiting to be permanently housed;
 - (b) The Government provides interim housing for evicted squatters, victims of domestic violence and families separated by divorce; and
 - (c) Self-built structures in squatter communities erected before 1982, and therefore protected by the relevant housing policy, have been provided in most cases with basic services including water, sanitation and access to roads, with a view to improving the living conditions of the residents.
7. The Committee notes with satisfaction that the Equal Opportunities Commission established in 1996 is effectively carrying out its mandate without interference from the Government of HKSAR.
8. The Committee notes with appreciation that the Committee's general comments are valuable source materials consulted frequently by the Human Rights Unit of the Justice Department.
9. The Committee welcomes the delegation's assurance that all rights enshrined in the Covenant contain certain justiciable aspects. Moreover, the Committee notes with satisfaction that the Covenant is invoked in Hong Kong courts.
10. The Committee welcomes the establishment of a Women's Commission in HKSAR.
11. The Committee commends the HKSAR programme for training unskilled and unemployed workers with the objective of finding employment for them. The Committee notes with appreciation that the Employers Training Board conducts training programmes for unskilled women and provides them with allowances during training courses.

C. Factors and difficulties impeding the implementation of the Covenant

12. The Committee notes that issues regarding the right of abode in relation to permanent residence and split families impede the enjoyment of economic, social and cultural rights by the families affected by the reinterpretation on 26 June 1999 by the National People's Congress Standing Committee of article 24 of the Basic Law.

13. While the "ultimate aim is the election of all the members of the Legislative Council by universal suffrage" (article 68, Basic Law), the Committee notes that the current arrangements for the election of the Legislative Council include some undemocratic features which impede the full enjoyment of economic, social and cultural rights in HKSAR.

14. The economic policies of HKSAR, based essentially on the philosophy of "positive non-interventionism", i.e. keeping taxes low and limiting government expenditure to the provision of essential services, in accordance with article 5 of the Basic Law, which guarantees a free trade, free enterprise and low tax regime for at least 50 years, have had a negative impact on the realization and enjoyment of the economic, social and cultural rights of Hong Kong's inhabitants, which has been exacerbated by globalization.

D. Principal subjects of concern

15. The Committee regrets that HKSAR has not implemented a number of the recommendations in its concluding observations of 1996, despite the delegation's assurance that these must be given effect. The Committee wishes to reiterate in particular its concern on the following issues:

(a) The fact that the Covenant's status in the HKSAR domestic legal order continues to be different from that of the International Covenant on Civil and Political Rights, the provisions of which have been incorporated into domestic legislation;

(b) The failure of HKSAR to extend the prohibition of race discrimination to the private sector;

(c) The failure of HKSAR to prohibit discrimination on the basis of sexual orientation and age;

(d) The failure of HKSAR to establish a national human rights institution with a broad mandate and its failure to establish adequate alternative arrangements for the promotion of economic, social and cultural rights;

(e) The absence of protection against unfair dismissal and the lack of adequate regulations on statutory minimum wage, working hours, paid weekly rest, rest breaks and compulsory overtime pay;

(f) The denial of the right of foreign domestic helpers upon expiration of their contract to freely seek employment and to protection from discrimination, owing to the two-week rule;

(g) The lack of a comprehensive policy for the protection of children from all forms of abuse.

16. The Committee greatly regrets that some judgements of the High Court in HKSAR express the opinion that the Covenant is "promotional" (*Mok Chi Hung v. Director of Immigration*, judgement of 5 January 2001) or "aspirational" (*Chan To Foon v. Director of Immigration*, judgement of 11 April 2001) in nature. As the Committee has confirmed on numerous occasions, such opinions are based on a mistaken understanding of the legal obligations arising from the Covenant.

17. The Committee is concerned that the Women's Commission may not have appropriate resources and powers to ensure that a gender perspective is integrated into the formulation of policy.

18. The Committee is gravely concerned about the widespread and unacceptable incidence of poverty in HKSAR. It is especially concerned that a large number of older persons continue to live in poverty without effective access to social services.

19. The Committee is deeply concerned that HKSAR lacks adequate institutional arrangements to ensure the formulation and implementation of comprehensive, integrated, consistent and effective anti-poverty strategies.

20. The Committee expresses its regret that in relation to the care of persons with mental illness, HKSAR is reluctant to authorize the prescribing of new drugs that are more costly but more effective and have been shown to produce fewer side effects for the mentally ill. In addition, the Committee notes with concern the apparent lack of initiative on the part of HKSAR to undertake public education to combat discrimination against those with mental disabilities.

21. The Committee is concerned that many individuals, including women who are homemakers, persons with disabilities and older persons, are excluded from the Mandatory Provident Fund Scheme.

22. The Committee is deeply concerned about the hardship arising from HKSAR policies on permanent residence and split families.

23. The Committee expresses its concern about the reported increase in the incidence of child abuse and suicide among the youth.

24. The Committee is concerned that the age of criminal responsibility is set at the young age of seven years.

25. While acknowledging that HKSAR has made progress in relation to housing, the Committee remains deeply concerned that the right to housing of many people in Hong Kong remains unfulfilled. In the Committee's view, bed-space apartments, or cage homes, are an affront to human dignity and roof-top structures constitute a grave risk to the life and health of their inhabitants.

26. The Committee is concerned that the Public Order Ordinance may be used to restrict trade union activities, such as peaceful campaigns to promote labour rights, which are protected by article 8 (c) of the Covenant.

E. Suggestions and recommendations

27. The Committee reminds HKSAR that the provisions of the Covenant constitute a legal obligation on the part of the States parties. Thus, the Committee urges HKSAR not to argue in court proceedings that the Covenant is only "promotional" or "aspirational" in nature.

28. The Committee again urges HKSAR to implement the Committee's suggestions and recommendations contained in its concluding observations of 1996, as well as the current ones, and to undertake whatever relevant concrete measures may be necessary towards their implementation.

29. The Committee recommends that HKSAR withdraw its reservation on article 6 and the interpretative declaration replacing its former reservation on article 8.

30. It is the Committee's view that the failure by HKSAR to prohibit race discrimination in the private sector constitutes a breach of its obligations under article 2 of the Covenant. The Committee calls upon HKSAR to extend its prohibition of race discrimination to the private sector.

31. The Committee also urges HKSAR to prohibit discrimination on the basis of sexual orientation and age.

32. The Committee urges HKSAR to establish a national human rights institution consistent with the Paris principles (1991) and the Committee's General Comment No. 10. Until such an institution is established, the Committee urges HKSAR to enhance its measures for the promotion of economic, social and cultural rights.

33. The Committee urges HKSAR to provide the Women's Commission with sufficient powers and resources to enable it to improve the status of women in Hong Kong, and to integrate gender in its policy-making and ensure wider participation of women in all spheres of public life.

34. The Committee reiterates its recommendation that HKSAR review its policy in relation to unfair dismissal, minimum wages, paid weekly rest time, rest breaks, maximum hours of work and overtime pay rates, with a view to bringing such policy into line with the HKSAR obligations as set forth in the Covenant.

35. The Committee urges HKSAR to enact legislation on equal pay for work of equal value as provided for in the Covenant.
36. The Committee urges HKSAR to adopt a comprehensive pension system that provides adequate retirement protection for the entire population, in particular for housewives, self-employed persons, older persons and persons with disabilities.
37. The Committee recommends that the Public Order Ordinance be reviewed with a view to amending its provisions to ensure freedom of trade union activities as provided for under article 8 (c) of the Covenant.
38. The Committee strongly recommends that HKSAR establish either an inter-departmental anti-poverty unit or an independent anti-poverty commission, to conduct relevant research, formulate anti-poverty strategies and monitor all policies for their impact on poverty.
39. The Committee urges HKSAR to ensure that Comprehensive Social Security Assistance levels permit recipients a reasonable standard of living consistent with articles 9 and 11 of the Covenant.
40. When formulating and implementing its policies on permanent residence and split families, HKSAR is urged to give the most careful attention to all the human rights dimensions of the issue, including articles 2 (2), 3 and 10 of the Covenant. The Committee reminds HKSAR that any limitations in connection with article 10 must be justified in relation to each element set out in article 4. The Committee urges HKSAR to reconsider extending the "concession" made by HKSAR following the reinterpretation of 26 June 1999.
41. HKSAR is urged to enhance the transparency of all relevant processes concerning permanent residence and split families. For example, the Committee recommends that all data, appropriately disaggregated (e.g. by origin of applicant), are made publicly available and tabled in the Legislative Council every six months.
42. The Committee calls upon HKSAR to adopt urgent measures to address the problems leading to youth suicide and all forms of child abuse.
43. The Committee calls upon HKSAR to amend its laws to raise the age of criminal responsibility so as to ensure the rights of the child under article 10 of the Covenant.
44. The Committee calls on HKSAR to give urgent attention to the housing rights of all Hong Kong residents, including squatters and those living in roof-top structures and bed-space apartments or cage homes. In its next periodic report, HKSAR is requested to give special attention to the impact of current policies on squatters, roof-top structures and bed-space apartments or cage homes. In particular, the Committee would like HKSAR to comment on the operation and efficacy of the Bed-space Apartments Ordinance (chap. 447).

45. The Committee recommends that HKSAR undertake a comprehensive review of mental health policy and adopt effective measures to ensure that persons with mental illness enjoy the right to adequate and affordable health care. The Committee urges HKSAR to provide public education to combat discrimination against persons with mental illness.

46. The Committee requests that HKSAR disseminate these concluding observations as widely as possible among its citizens.

47. The Committee requests HKSAR to address, in its second periodic report, the implementation of these concluding observations.

48. The Committee requests HKSAR to submit information on its progress in implementing the Committee's recommendation in paragraph 30 (race discrimination) by 30 June 2003. The Committee requests HKSAR to submit its full second periodic report in accordance with the prescribed dates of submissions.



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COMMITTEE ON ECONOMIC, SOCIAL
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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT**

**Concluding observations of the Committee on
Economic, Social and Cultural Rights**

Republic of Korea

1. The Committee considered the second periodic report of the Republic of Korea on articles 1 to 15 of the Covenant (E/1990/6/Add.23) at its 12th, 13th and 14th meetings (E/C.12/2001/SR.12, 13 and 14) held on 30 April and 1 May 2001 and adopted at its 26th meeting (E/C.12/2001/SR.25), held on 9 May 2001, the following concluding observations.

A. Introduction

2. The Committee expresses its appreciation to the State party for the comprehensive report and for the written replies to its list of questions (E/C.12/Q/REPOFKOR/2). The Committee notes with satisfaction the presence of a large expert delegation which presented the report and which approached the dialogue in a frank and constructive manner. The Committee notes, however, that the report failed to include information on several important areas and updated statistics, particularly on the critical situation following the financial crisis, although this was partly remedied in the written and oral information subsequently provided to the Committee.

3. The Committee regrets that most of its suggestions and recommendations contained in its previous concluding observations, adopted upon examination of the initial report, have not been implemented.

B. Positive aspects

4. The Committee notes with satisfaction the significant and rapid economic recovery from the 1997-1998 financial crisis in the Republic of Korea, the present open climate towards human rights generally, and the advances recently realized in the enjoyment of some economic, social and cultural rights.

5. The Committee notes with satisfaction the adoption of a wide range of laws and programmes aimed at ensuring an adequate standard of living for all persons, including the National Basic Livelihood Security Act of 1999, the Employment Insurance Act, the National Pension Scheme the National Health Insurance Scheme and the Industrial Accident Compensation Act. It welcomes the extended application of the minimum wage to workers in all enterprises, whereas the minimum wage had previously been applicable only to workers in enterprises employing more than 10 persons.

6. The Committee takes note of the recent establishment of the Ministry for Gender Equality. It also notes with satisfaction the actions taken to grant women equality with regard to employment, marriage to foreigners, equality in the registration of children, and the possibility of passing on their family name to their children. It further welcomes the Child Welfare Act and the programmes in place to significantly expand public and private childcare facilities, which are encouraging women's participation in remunerative activities.

7. The Committee welcomes the recent opening of an office of the United Nations High Commissioner for Refugees in Seoul, through which applications for asylum can be processed.

C. Factors and difficulties impeding the application of the Covenant

8. The Committee notes that the State party is experiencing a period of major socio-economic transition that affects its ability to comply with its obligations under the Covenant.

9. The Committee notes the continued negative effects on the enjoyment of economic, social and cultural rights of the pervasive "fortress mentality", which is enforced by the National Security Law. Moreover, the high level of defence expenditure is in contrast with the shrinking budget for key areas of economic, social and cultural rights.

10. The Committee notes that deeply rooted traditions and cultural prejudices marginalize certain categories of persons, such as migrant workers, and many women.

11. The Committee notes that the "economy-first" approach adopted by the State party has resulted in a low priority being placed on the protection of economic, social and cultural rights. This has led to the marginalization of certain groups in society in such matters as housing, social welfare and health care.

D. Principal subjects of concern

12. The Committee is concerned that the State party did not take into account its Covenant obligations when negotiating with international financial institutions to overcome its financial crisis and restructure its economy. The overreliance on macroeconomic policies has had profound negative effects on the enjoyment of economic, social and cultural rights in that there have been large-scale employee dismissals and lay-offs, a significant deterioration in employment stability, growing income inequalities, an increasing number of broken families and marginalization of a large number of persons.

13. The Committee views with concern the fact that the rapid pace of economic development has not been matched by efforts to guarantee economic, social and cultural rights. The Committee is concerned that, in such a situation, some rights or the rights of some groups are being sacrificed for the sake of economic recovery and market competitiveness.

14. The Committee is concerned that the data-collection methods of the State party do not seem to be fully reliable. Examples include data on unemployment and underemployment, housing, poverty and migration. In some cases, there were very large gaps between the statistics provided by the Government and those from other sources, including the agencies of the United Nations and non-governmental organizations, which has serious implications for the effectiveness of government policies and programmes designed to address the needs of the most vulnerable and marginalized people.

15. The Committee regrets that no adequate effort has been made since the examination of the initial report to ensure that the rights provided for in the Covenant are fully enshrined in law. The Committee notes with concern that, according to the Constitution, the status of the Covenant is equal to that of domestic laws, which means that the protection of some rights may be overridden by subsequently enacted laws or special laws. It regrets the lack of clarity as to whether all Covenant rights can be invoked in domestic courts and further regrets the absence of any case law.

16. Notwithstanding the advances noted in paragraph 6, the Committee notes with deep concern the continued unequal status of women. Persisting problems include the traditional preference for sons, which is manifested in a high incidence of induced abortions of girl foetuses that threaten the reproductive rights of women; the patriarchal head-of-family system (ho-ju) as defined in law; the high incidence of domestic violence; the relatively low access by women to tertiary education; discrimination against women and sexual harassment in the workplace; and a large gap in the average salaries paid to women and to men.

17. The Committee regrets that the specific conditions of work to which the so-called "irregular workers" are subject have not been clarified during the dialogue. Information from independent sources indicate that "irregular" workers are distinguished from "regular" workers, although they often perform the same tasks, in that irregular workers receive lower wages, pension benefits, unemployment and health benefits and have less job security. It also notes that the proportion of irregular workers in the general labour force has grown to half, the great majority of them women.

18. The Committee is alarmed at the rising incidence of industrial accidents in recent years, which appears to be the result of a relaxation of the standards governing industrial safety and of the insufficient number of on-site inspectors.

19. The Committee notes that teachers can legally enjoy their right under article 8 of the Covenant to form and belong to trade unions. However, it is concerned that they are still prevented from participating in collective bargaining and in strikes, a right guaranteed in both the Covenant and in the national Constitution (art. 33). While cognizant of the elevated status that is traditionally bestowed on teachers in Korean society, the Committee considers it inappropriate for the Government to assume the role of guardian of traditions that prevent the exercise of this fundamental right.

20. The Committee is also concerned that the laws governing industrial actions are not transparent and appear to give the authorities inordinate discretion in determining the legality of strikes. In this regard, it considers entirely unacceptable the approach taken to criminalize strike activities. In addition, the Committee is deeply disturbed by the excessive force used by the police against recent labour demonstrations that had been set off by massive lay-offs. The Committee considers the combined effect of these circumstances to be a clear negation of the rights provided for in article 8 of the Covenant.

21. The Committee is concerned about the rising incidence of sexual exploitation of children, child labour, and hardships caused by a breakdown of the family. In this regard, the legal protection accorded to children does not appear to have been adequately implemented.

22. The Committee notes with concern the shifting population distribution from rural to urban areas, with most government programmes to develop infrastructure, education, health care and other essential facilities being highly concentrated in the urban areas. Urban migration of younger people has left many older persons to care for family farms in the countryside. The Committee regrets that the situation of persons living in rural areas has not been sufficiently dealt with during the present dialogue.

23. While welcoming the adoption of programmes to supplement the incomes of those living under the poverty line, notably through the National Basic Livelihood Security Act, the Committee has doubts about the adequacy of the assistance given. The eligibility criteria are apparently so rigid as to exclude many of the poor, and the amount of financial assistance regularly awarded can reportedly be drastically reduced without notice and without reason. The National Pension Scheme, which is said to have nationwide coverage and be open to all persons, nevertheless fails to provide for an inordinate proportion of the workforce who are reaching pensionable age but have not been able to contribute to the system for a sufficient number of years.

24. The Committee notes with concern that despite the State party's attempts to promote employment of the disabled, the previous 2 per cent quota for workers with disabilities in enterprises employing over 300 employees has not been met, even within government agencies. The Committee is also concerned that enforcement mechanisms for this purpose do not seem to have been established.

25. The Committee regrets the lack of accurate information concerning the number of forced evictions and the specific conditions under which they can occur, in accordance with the Committee's General Comment No. 7. The Committee is also concerned that victims of private construction projects are not provided with compensation or temporary lodging, unlike private homeowners who are evicted as a result of public projects. Moreover, the Committee is concerned about the affordability of housing for lower income groups, especially the vulnerable and marginalized groups; about the use of "vinyl houses" for dwellings, which pose grave risks to their dwellers; and about the increasing number of the homeless.

26. The Committee is disturbed that the portion of the government budget allocated to health, which is under 1 per cent is low and declining. It is concerned at the predominance of privately operated health care facilities - estimated to exceed 90 per cent of all health care facilities, a trend that accelerated in the wake of the financial crisis - and the consequent negative implications for access to health care by the most marginalized sectors of society.

27. The Committee notes with concern that the low quality of education in public schools is compelling families to supplement the education of their children with private instruction, thereby placing an undue financial burden on families, especially those in lower-income groups.

28. The Committee also notes with concern the predominance of private institutions in higher education, a fact detrimental to the lower income groups. It further notes that over two thirds of the students in higher education are males, which is contrary to the principle of gender equality.

29. The Committee notes that education is free and compulsory only at the primary school level, which is not commensurate with the State party's high level of economic development.

30. The Committee is concerned that the present criteria for granting refugee status appear to be far too stringent, with only one application having been approved to date.

31. The Committee notes with concern that human rights education has not yet been formally incorporated as a required subject for all members of those professions that are most directly involved in the promotion and protection of economic, social and cultural rights.

32. The Committee is concerned that the National Security Law is being used to curtail the activities of intellectuals and artists. Under this law, not only are their works being censored, confiscated or destroyed, but the intellectuals and artists themselves are being subjected to criminal prosecution.

E. Suggestions and recommendations

33. The Committee reiterates and affirms its suggestions and recommendations contained in its previous concluding observations on the State party's initial report and urges the State party to take concrete steps to implement them.

34. The Committee emphasizes that a human rights approach to government actions must begin with a proper understanding of the actual situation in respect of each right, accurate identification of the most vulnerable groups, and the formulation of appropriate laws,

programmes and policies. It urges the national statistical agencies and relevant ministries to review the ways in which data relating to all rights are collected through the lens of the Covenant.

35. While noting the enactment of a new law that establishes a national human rights commission, the Committee emphasizes the importance of establishing the commission in full conformity with the 1991 Principles relating to the status of national institutions (the "Paris Principles"), and in this context, draws attention to its General Comment No. 10.

36. The Committee urges the State party to accord the Covenant a legal status that would enable it to be invoked directly within the domestic legal system. It recommends that such status be superior to all national laws, whether precedent, antecedent or special, and refers in this regard to its General Comment 9.

37. The Committee recommends that the State party allocate the necessary resources to enable the newly established Ministry for Gender Equality to function effectively and to apply a gender perspective in legislation and in society.

38. The Committee recommends that detailed information on the situation of "irregular" workers be included in the third periodic report. In the meantime, it strongly recommends that the State party reconsider the status of irregular workers and guarantee their rights under the Covenant.

39. The Committee reminds the State party that the provisions of article 8 guarantee for all persons the right to freely form and join trade unions, the right to engage in collective bargaining through trade unions for the promotion and protection of their economic and social interests, as well as the right to strike. The Committee urges the State party to desist from using criminal proceedings against striking trade unions. It also urges the State party to refrain from using any force beyond that absolutely necessary for the maintenance of public order. The Committee recommends that the right of teachers and other civil servants to form and join trade unions, to engage in collective bargaining and to strike should be guaranteed in law and in practice. Detailed information on this is requested in the third periodic report.

40. The Committee recommends that the State party take more effective measures to combat the sexual trade of children and child labour, as well as expand its programmes directed at the protection and rehabilitation of the victims of such practices.

41. The Committee recommends that the State party establish a focal point within the Government for dealing with complaints or appeals for assistance on housing matters. It recommends that protection be provided, such as compensation and temporary housing, to victims of forced evictions resulting from private development projects. The State party should also ensure that adequate housing is available to members of vulnerable or marginalized groups. Moreover, the State party should take immediate measures to assist all those who are homeless or living in exceptionally substandard conditions, such as "vinyl houses".

42. The Committee recommends that the State party establish a plan to strengthen the public education system in conformity with article 13 of the Covenant and General Comment No. 13 of the Committee, and in accordance with the State party's high level of economic development. The plan should include the following elements: a reasonable timetable for specific actions for the introduction of free and compulsory secondary education; a re-examination of the functions and quality of the public education system relative to private education, with a view to strengthening the former and easing the burden on low-income groups imposed by the latter; a study of accessibility of schools at all levels, including tertiary education, and specific actions to be taken to ensure equal access by all sectors of society; and a reassessment of the curricula at all levels of instruction directed at promoting respect for human rights and fundamental freedoms. Information on this matter is requested in the third periodic report of the State party.
43. Insofar as traditional practices pose an obstacle to the fulfilment of some rights or perpetuate discrimination of any kind, including the preference for sons and the abortion of girl foetuses, the State party should carry out large-scale public campaigns to promote understanding among the general public about human rights.
44. The Committee recommends that the State party prepare, in accordance with the Vienna Declaration and Programme of Action adopted at the 1993 World Conference on Human Rights, in cooperation with the Office of the High Commissioner for Human Rights, a national human rights plan of action, taking into account the observations made by this and other treaty bodies. It requests that information on such a national plan be provided in the State party's third periodic report.
45. The Committee urges the State party to provide detailed information in its third periodic report, to be submitted by 30 June 2006, on conditions in the rural sector and the situation regarding agriculture and food production.



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COMMITTEE ON ECONOMIC, SOCIAL
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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT**

**Concluding observations of the Committee on Economic,
Social and Cultural Rights**

Bolivia

1. The Committee on Economic, Social and Cultural Rights considered the initial report of Bolivia on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/1990/5/Add.44) at its 15th, 16th and 17th meetings (E/C.12/2001/SR.15-17), held on 2 and 3 May 2001, and adopted, at its 28th meeting (E/C.12/2001/SR.28), held on 10 May 2001, the following concluding observations.

A. Introduction

2. The Committee welcomes the initial report submitted by Bolivia, the written replies to the Committee's list of issues (E/C.12/Q/BOL/1), and the additional information submitted during the dialogue. However, the Committee regrets the 17-year delay in the submission of the initial report as well as the delay in the submission of the written replies to the Committee's list of issues.

3. The Committee has considered the written materials submitted by Bolivia, which contain mostly legal information. While this information is important, the Committee regrets the absence of specific information on the practical application of the legal framework, which is necessary for the Committee's evaluation of the implementation of economic, social and cultural rights in Bolivia.

4. The Committee regrets that many of the questions put by the members of the Committee were left unanswered or were answered by statements of a general nature.

B. Positive aspects

5. The Committee welcomes the creation of the Ministry of Justice and Human Rights (1994), and the Human Rights Offices established by the Ministry in the sensitive areas of the country. Similarly, the Committee notes with appreciation the establishment in 1997 of the People's Defender (Defensor del Pueblo).
6. The Committee appreciates the elaboration by the State party of a comprehensive and multidisciplinary "Promotion and Defence of Human Rights" project with the assistance of OHCHR and UNDP.
7. The Committee notes with appreciation that article 1 of the Constitution establishes Bolivia as a multicultural and multi-ethnic democracy. In this regard, the Committee notes with interest the announcement by the delegation of the future enactment on 31 May 2001 of the new Penal Procedures Code, which renders three of the main indigenous languages, namely Quechua, Aymara and Tupi Guarani, languages of judicial and administrative procedures.
8. The Committee notes with satisfaction the enactment of laws and the establishment of a number of programmes and policies for promoting equality between women and men, as well as the establishment in 1993 of a Subsecretariat of Gender Affairs under the National Secretariat for Ethnic and Generational Affairs of the Ministry for Development.

C. Factors and difficulties impeding the implementation of the Covenant

9. The Committee notes the enduring negative economic conditions suffered by the State party, due in part to the relatively undiversified structure of the economy, the structural adjustment programmes undergone by Bolivia since 1985 and its considerable foreign debt.
10. The Committee is aware that efforts to introduce legal crops to replace cocaine production in certain rural areas have led to the impoverishment of the small farmers involved.

D. Principal subjects of concern

11. The Committee regrets that laws incorporating the Covenant into Bolivia's domestic legal system have not yet been adopted.
12. The Committee is deeply concerned about allegations of corruption against certain Supreme Court judges.
13. The Committee is deeply concerned about the extent of poverty in Bolivia. According to UNDP figures, 88.8 per cent of all households in Bolivia have an income below the poverty line. Moreover, 90 per cent of these households are in rural areas. This situation is reflected in

indicators such as infant mortality, life expectancy, literacy, and access to sanitation, potable water and health-care services. In this regard, the Committee deplores the highly uneven distribution of wealth in Bolivia.

14. The Committee is particularly concerned about the marginalization of, and discrimination against, indigenous communities in Bolivia, who constitute the majority of Bolivia's rural population and who suffer from inadequate access to basic education, adequate housing, and health services. Moreover, the Committee is concerned that the State party does not acknowledge the economic, social and cultural rights of indigenous populations as a distinct group.

15. Notwithstanding the impressive number of legal instruments and policies adopted by the State party to ensure gender equality, the Committee expresses its concern about the *de facto* inequality between men and women, which is exacerbated by the perpetuation of traditional prejudices and social conditions, such as discrimination in education of the girl child in rural areas. Such discrimination is particularly reflected in the low level of representation of women in public service, the high female illiteracy rate, unequal wages for work of equal value, and the high proportion of women working under inadequate conditions in the informal sector or as domestic workers.

16. The Committee deplores the *de jure* discrimination of salaried domestic workers established in Chapter II of the General Labour Code, with regard to daily and weekly rest and annual paid vacation, dismissal, social benefits and salary. Further, the Committee is concerned that domestic workers are subject to ethnic, class, gender and other discrimination.

17. The Committee is concerned that the method for determining the minimum wage is arbitrary, and that the current level of minimum wage does not secure a standard of living in dignity for the affected workers and their families.

18. The Committee considers that the excessively lengthy procedure for declaring a strike legal constitutes a restriction on the right provided for in article 8 (1) (d) of the Covenant. Similarly, the Committee expresses concern that restrictions imposed in the General Labour Law on trade union rights infringe on the rights provided for in article 8 (1) (a) of the Covenant.

19. The Committee deplores the practice of child labour and the exploitation of children in domestic work, in particular the existence of the practice of indigenous *criaditos*, which remains outside the control of the State party.

20. The Committee is concerned that land reform is not a top priority on the Government's agenda, and that the Government does not provide legal counselling for farm workers with regard to establishment of title for their lands.

21. The Committee is concerned about the large housing shortage, the incidence of forced evictions with respect to peasants and indigenous populations in favour of mining and lumber concessions, and the absence of effective measures to provide social housing for low-income, vulnerable and marginalized groups.

22. The Committee is disturbed about the situation of children subjected to physical and mental abuse, as well as the extent of child malnutrition in Bolivia.

23. The Committee is concerned about the current status of reproductive health rights of women, and in particular the high rate of maternal mortality - the highest in Latin America - which is attributed to illegal abortions and to the absence of medical assistance during childbirth.

24. The Committee expresses its concern about the limited possibilities for indigenous populations to enjoy education in their mother tongue and to use their mother tongue in their dealings with public authorities.

25. The Committee is concerned by the slow progress in the process of literacy training and the still high levels of illiteracy in Bolivia. According to UNESCO, the level of illiteracy for adults is 16.3 per cent. The situation for children is also alarming: 70 per cent of children under 9 years of age do not attend school.

E. Suggestions and recommendations

26. The Committee strongly urges the State party to ensure that the Covenant is taken into account in the formulation and implementation of all policies concerning economic, social and cultural rights.

27. The Committee encourages the State party to ratify the Protocol of San Salvador to the American Convention on Human Rights, which the State party signed in 1988.

28. The Committee calls upon the State party to ensure that the economic, social and cultural rights enshrined in the Covenant are directly applicable in the domestic legal order.

29. The Committee requests the State party to provide, in its second periodic report, detailed information about the effect of the decentralization of government on the enjoyment by Bolivian citizens of their economic, social and cultural rights.

30. The Committee urges the State party to take remedial action against the marginalization of, and discrimination against, indigenous populations in all sectors of society. The Committee requests the State party to provide, in its second periodic report, detailed information about the efforts made by the State party to enhance the enjoyment of rural populations, in particular rural indigenous populations, of their economic, social and cultural rights.

31. The Committee urges the State party to take effective measures to combat discrimination against women in public, economic and social life.

32. The Committee recommends that the State party adopt and implement programmes to increase technical and professional training opportunities and job opportunities and to reduce unemployment.

33. The Committee calls on the State party to ensure just and favourable working conditions to domestic workers, in particular with regard to daily and weekly rest and annual paid vacation, terms of dismissal, social benefits and salary.
34. The Committee recommends that the State party considers ratifying ILO Conventions Nos. 2 (unemployment) and 29 (forced labour).
35. The Committee urges the State party to ensure that the minimum wage is sufficient to provide an adequate standard of living for the worker and his family.
36. The Committee asks the State party to ensure that the excessive time period for collective negotiation does not constitute an obstacle to the right to strike.
37. The Committee urges the State party to combat violence against women by initiating a campaign with a view to combating negative traditional practices and prejudices and their effects and consequences. In this regard, the Committee also calls on the State party to ensure adequate financial and human resources for the implementation of the National Plan for the Prevention, Punishment and Eradication of Violence against Women. The Committee requests the State party to provide, in its second periodic report, detailed information and up-to-date statistics on the phenomenon of violence against women in Bolivia, as well as results of the measures taken to combat this serious problem.
38. The Committee also urges the State party to ratify ILO Convention No. 182 (worst forms of child labour), and to take effective measures to eradicate the phenomenon of criaditos.
39. The Committee recommends that Bolivia explicitly take the Covenant into account when implementing the policies, programmes and projects deriving from its Poverty Reduction Strategy Paper, which forms part of the enhanced Highly Indebted Poor Countries Initiative. In this regard, the State party is referred to the statement on poverty adopted by the Committee on 4 May 2001.
40. The Committee urges the State party to pursue land reform as a priority in its agenda, to provide the economic and human resources needed for its implementation and to proceed without delay with the title establishment procedures.
41. The Committee recommends that the State party address the problems of the large housing shortage, the high incidence of forced evictions and the lack of social housing for low-income, vulnerable and marginalized groups. The Committee requests the State party, in its second periodic report, to give detailed information on the number and nature of forced evictions having taken place in Bolivia, in accordance with General Comment No. 7 of the Committee.
42. The Committee urges the State party to address the problems and shortcomings facing children and affecting their welfare, beginning with the varied types of child exploitation such as the trafficking of children, their sexual exploitation and domestic maltreatment. The Committee urges the State party to provide the necessary financial resources needed for children's education and the eradication of child malnutrition.

43. The Committee calls upon the State party to take measures to reduce the female mortality rate, and in particular to bring about a reduction of deaths caused by illegal abortion and unassisted childbirth. In particular, the Committee recommends that the State party intensify the implementation of its National Sexual and Reproductive Health Programme, organize educational campaigns regarding women's sexual and reproductive health, and include such subjects in school curricula.

44. The Committee recommends that the State party give priority to education in its budget, establish literacy programmes for adults, in particular in the rural areas, and make efforts to increase the school attendance levels of children under the age of 9. In this regard, the State party is urged to implement a comprehensive national plan for education for all, as anticipated by paragraph 16 of the Dakar Framework of Action, taking into account the Committee's General Comment Nos. 11 and 13.

45. The Committee encourages the State party to proceed with enacting the Penal Procedures Code, which renders three of the main indigenous languages, namely Quechua, Aymara and Tupi Guarani, languages of judicial and administrative procedures.

46. The Committee recommends that the State party avail itself more actively of technical assistance and cooperation from the Office of the United Nations High Commissioner for Human Rights and the relevant United Nations specialized agencies and programmes, particularly in the preparation of its second periodic report to the Committee.

47. The Committee requests the State party to disseminate its concluding observations widely among all levels of society and to inform the Committee on all steps taken to implement them. It also encourages the State party to consult with non-governmental organizations and other members of civil society in the preparation of its second periodic report.

48. Finally, the Committee requests the State party to submit its second periodic report by 30 June 2005, and to include in this report detailed information on the steps it has taken to implement the recommendations contained in the present concluding observations.



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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLES 16 AND 17 OF THE COVENANT**

**Concluding observations of the Committee on
Economic, Social and Cultural Rights**

Togo

1. The Committee considered the state of implementation by Togo of the economic, social and cultural rights contained in the Covenant at its 19th meeting (E/C.12/2001/SR.19), held on 4 May 2001, and adopted, at its 26th meeting (E/C.12/2001/SR.26), held on 9 May 2001, the following concluding observations.

A. Introduction

2. At its seventh session, the Committee on Economic, Social and Cultural Rights decided to proceed to a consideration of the state of implementation of the International Covenant on Economic, Social and Cultural Rights in a number of States parties which, despite many requests to do so, had not fulfilled their reporting obligations under articles 16 and 17 of the Covenant.

3. The purpose of the reporting system established by the Covenant is for the States parties to report to the competent monitoring body, the Committee on Economic, Social and Cultural Rights, and through it to the Economic and Social Council, on the measures which have been adopted, the progress made, and the difficulties encountered in complying with the rights recognized in the Covenant. Non-performance by a State party of its reporting obligations, in

addition to constituting a breach of the Covenant, creates a severe obstacle to the fulfilment of the Committee's functions. Nevertheless, in such a case, the Committee has to perform its supervisory role, and it must do so on the basis of all reliable information available to it.

4. Hence, in situations where a Government has not supplied the Committee with any information as to its compliance with its obligations under the Covenant, the Committee has to base its observations on a variety of materials stemming from both intergovernmental and non-governmental sources. While the former provide mainly statistical information and important economic and social indicators, the information gathered from the relevant literature, from non-governmental organizations and from the press tends, by its very nature, to be more critical of the political, economic and social conditions in the countries concerned. Under normal circumstances, the constructive dialogue between a reporting State party and the Committee will provide an opportunity for the Government to voice its own views, and to seek to refute any criticism and convince the Committee of the conformity of its policy with the requirements of the Covenant. Consequently, if a State party does not submit a report and does not appear before the Committee, it deprives itself of the possibility of setting the record straight.

5. Togo has been a party to the International Covenant on Economic, Social and Cultural Rights since 23 August 1984 and, despite numerous written requests, has not yet submitted its initial report. Despite any difficulties that the State party may be encountering which are impeding the State party's efforts to comply with its reporting obligations under the Covenant, the Committee urges the State party to make all possible efforts to fulfil its reporting obligations and to engage in a constructive dialogue with the Committee.

6. Bearing in mind the grave economic, social and political situation in Togo at present, as a result of the persisting political and social unrest in the country, the Committee deems it necessary to confine these concluding observations to an assessment of the deliberations of the Committee with respect to the current status of economic, social and cultural rights in the State party. The Committee further considers that, given the limited information available to it, as well as the need for technical assistance to be offered to the State party to enable it to comply with its reporting obligations, the Committee's concluding observations can only be of a very preliminary nature.

B. Factors and difficulties impeding the implementation of the Covenant

7. The Committee recognizes that the persisting political unrest, economic crisis and serious inadequacy of the country's infrastructure have had very negative effects on the general situation of Togo, and on the enjoyment of all economic, social, cultural, civil and political human rights in the country.

C. Positive aspects

8. The Committee notes that the Government of Togo embarked upon technical cooperation projects with the Office of the High Commissioner for Human Rights in 1996, with a view to strengthening the rule of law in Togo and to creating a human rights culture in the country, which in 1998 resulted in a number of activities such as the establishment of an information and documentation centre.

9. The Committee also notes that the State party established a National Human Rights Commission in 1987 and a Ministry of Human Rights in 1992, with a view to protecting the rights of citizens, promoting human rights and instructing the Togolese people about their rights.
10. The Committee acknowledges the efforts undertaken by the Government to address the problems of trafficking in children and female genital mutilation by, *inter alia*, organizing awareness campaigns and workshops.

D. Principal subjects of concern

11. The Committee expresses its deep concern about the deteriorating general human rights situation in the State party during the last three years, during which large-scale human rights violations, such as killings, extra-judicial executions, rapes and bombing of houses, have allegedly taken place, as stated in the report of 22 February 2001 of the International Commission of Inquiry for Togo.
12. The Committee is concerned about the position of women in Togolese society. Despite a constitutional declaration of equality under the law, women continue to experience widespread discrimination, especially in relation to the rights to education, social security (in particular pension benefits), family protection (particularly family law regulation of inheritance), and in relation to traditional law practices.
13. The occurrence of societal discrimination on the basis of ethnicity by all ethnic groups is a matter of grave concern to the Committee, in particular the discrimination between southerners and northerners, which is evident in private sector hiring, buying patterns, and the de facto ethnic segregation in urban neighbourhoods. These north-south tensions have regularly been the cause of eruptions of violence of a clearly inter-ethnic character.
14. The Committee notes with concern that trafficking in women for the purpose of forced prostitution and of non-consensual labour as domestic servants persists. The Committee also notes with concern that trafficking in persons predominantly concerns children, who are sold as young as two years old for future work on plantations or as house servants. Allegedly, these children are extensively exploited, poorly fed, crudely clothed and inadequately cared for. Although the State party has been undertaking some measures to address these problems, such as conducting public awareness campaigns and organizing a workshop for border police and other law enforcement officers on child trafficking trends and judicial remedies, the root causes of these problems have not been adequately addressed. In addition, violence against women continues to be a serious problem, with mechanisms for redress inadequately used and police rarely intervening in domestic violence cases, as is the persistence of female genital mutilation of young girls, despite the governmental measures taken.
15. The Committee expresses its particular concern with regard to the education of children. A pattern of discrimination against children, especially girls, is prevalent in the State party. According to the Human Development Report, 2000, only 70.2 per cent of primary-school-age girls attend primary school, which is 74 per cent of male enrolment. Only 40.0 per cent of secondary-school-age girls attend secondary school, which is 52 per cent of male enrolment.

At university level, women's enrolment constitutes only 21 per cent of male enrolment in tertiary education. This inequality is also reflected in the difference in adult literacy rates, which is 38.4 per cent for women, only 53 per cent of the male rate.

16. The Committee is concerned about the extremely low quality of health services and the significant lack of qualified personnel in the public sector, and in particular about the alarming rate of HIV/AIDS cases, which is three times higher than the average for countries with a low human development index (185.2 cases per 100,000 people, as opposed to the average of 67.5); 8.52 per cent of the adult population is living with HIV/AIDS.

E. Suggestions and recommendations

17. The Committee reiterates its request that the Government of Togo actively participate in a constructive dialogue with the Committee on how the obligations arising from the International Covenant on Economic, Social and Cultural Rights can be fulfilled in a more adequate manner. It calls the Government's attention to the fact that the Covenant creates a legal obligation for all States parties to submit their initial and periodic reports and that Togo has been in breach of this obligation for many years.

18. The Committee recommends that the Government of Togo avail itself of the advisory services of the Office of the United Nations High Commissioner for Human Rights, so that it can submit, as soon as possible, a comprehensive report on the implementation of the Covenant in conformity with the Committee's revised guidelines and with particular emphasis on the issues raised and concerns expressed in the present concluding observations.

19. The Committee also encourages the State party to seek expert assistance from the Office of the High Commissioner for Human Rights, through its programme of advisory services and technical cooperation, for the purpose of formulating policies on economic, social and cultural, as well as civil and political rights, of developing coherent and comprehensive plans of action for the promotion and protection of human rights, and for developing adequate means of evaluating and monitoring their realization.

20. The Committee recommends that the Government of Togo address the persistence of societal discrimination patterns, in particular in relation to women and girls, and between the various ethnic minorities living in Togo, with a view to eliminating such patterns by adopting appropriate legislative and administrative measures, developing non-discrimination policies, and by taking effective steps to enforce such measures and policies.

21. The Committee urges the State party to take action with respect to the current health situation in the country, which still remains inadequate to address the basic health needs of the population, such as the improvement of basic health services and providing the necessary preventive and remedial steps to combat the HIV/AIDS pandemic and other communicable diseases. The Committee also recommends that the State party take into account the Committee's General Comment No. 14 on the right to an adequate standard of health.

22. The Committee invites the State party to participate in a dialogue to be held during a future session of the Committee, together with representatives of the relevant specialized

agencies, such as the World Bank, the International Monetary Fund, FAO, WHO, ILO, UNDP, UNICEF and UNESCO, in accordance with articles 2 (1) and 23 of the Covenant. The Committee is convinced that only by means of a constructive dialogue between the State party, the above institutions and the Committee can an adequate and realistic appraisal of feasible development and human rights strategies be achieved for the benefit of all citizens of Togo.

23. The Committee wishes to emphasize that the suggestions and recommendations set out in the preceding paragraphs depend for their success upon the State party's renewed commitment to fulfilling its reporting and other international legal obligations under the Covenant.

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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT**

**Concluding observations of the Committee on Economic, Social
and Cultural Rights**

SENEGAL

1. The Committee on Economic, Social and Cultural Rights considered the second periodic report of Senegal on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/1990/6/Add.25) at its 32nd and 33rd meetings (E/C.12/2001/SR.32 and 33), held on 14 August 2001, and adopted, at its 53rd meeting (E/C.12/2001/SR.53), held on 28 August 2001, the following concluding observations.

A. Introduction

2. The Committee welcomes the second periodic report submitted by Senegal. However, the Committee regrets that the State party did not provide written replies to the list of issues (E/C.12/Q/SEN/1). The Committee also deeply regrets the absence of a delegation from the State party. Consequently, the Committee was denied the opportunity of having a detailed and constructive dialogue with representatives of the State party.

3. The Committee is particularly concerned that the report provided by the State party, in spite of giving a good overview of the legal and administrative situation prevailing in Senegal concerning the rights covered by the Covenant, lacks detailed information and statistical data as to the concrete measures and policies which have been adopted to implement the Covenant rights.

B. Positive aspects

4. The Committee views as a positive development the growth of the State party's gross domestic product (GDP) at a rate of about 5.3 per cent per annum since the devaluation of the CFA franc in 1994.

5. The Committee notes with satisfaction the efforts undertaken by the State party with regard to the prevention of the spread of HIV/AIDS in Senegal. Owing to the national campaigns undertaken by the State party to rally and involve all sectors of society, including religious authorities, Senegal has one of the lowest rates of infection in sub-Saharan Africa.

6. The Committee notes with appreciation the enactment of Law No. 99.03 of January 1999 which criminalizes, *inter alia*, female genital mutilation, sexual harassment and domestic violence against women.

7. The Committee welcomes the high proportion of government expenditure allocated to public education. The Committee also notes with appreciation that Senegal hosted the World Education Forum in April 2000 where the Dakar Framework for Action on Education for All was adopted.

8. The Committee takes note with satisfaction of the establishment of several national human rights institutions in Senegal.

9. The Committee welcomes the new law enacted by the State party allowing women 14 weeks of maternity leave.

C. Factors and difficulties impeding the implementation of the Covenant

10. The Committee takes note that the efforts of the State party to comply with its obligations under the Covenant are impeded by the internal conflict prevailing in the Casamance region and by the effect of some aspects of the structural adjustment programmes it has adopted and the repayment of its external debt.

11. The Committee notes that the persistence of certain traditions, customs and cultural practices in Senegal continue to impede the full enjoyment by women and girls of their rights under the Covenant.

D. Principal subjects of concern

12. The Committee expresses its concern about the lack of information from the State party on the specific measures it has taken to implement the recommendations contained in the concluding observations adopted by the Committee in 1994 in relation to Senegal's initial report.

13. The Committee is concerned that, although the new Constitution of Senegal in its preamble guarantees the enjoyment of economic, social and cultural rights, no legislation, apart from the new Labour Code, has been passed to implement the rights guaranteed under the Covenant.

14. The Committee is concerned that the State party is not taking effective measures, legal or otherwise, to recognize and protect religious and ethnic minorities with a view to ensuring that their rights are guaranteed under the Covenant.

15. The Committee expresses its concern about the *de jure* and *de facto* inequality that exists between men and women in Senegalese society. For example, article 152 of the Family Code discriminates against women, notably in the fields of taxation, allocation of seeds and family allowances. The Committee is particularly concerned about the lack of progress made by the State party in eradicating the enduring discriminatory practices against women and girls. Such practices include polygamy, restricted access to land, property, housing and credit facilities, and the inability to inherit land.

16. The Committee is concerned that the State party is not taking appropriate measures to address discrimination against women with regard to access to employment.

17. The Committee notes with concern the lack of adequate protection and facilities for people with disabilities who are unable to participate in many occupations due to physical barriers and lack of equipment and training opportunities.

18. The Committee is concerned about the high unemployment rate in Senegal, especially among the young people living in Dakar.

19. The Committee is concerned that the minimum wage is not sufficient to provide a decent standard of living for workers and their families.

20. The Committee is concerned that, while half of Senegalese workers are employed in the informal sector, most of them still lack access to basic social services, including social security and health insurance, and work long hours in unsafe conditions.

21. The Committee is concerned that the State party is not taking appropriate measures to protect the rights of domestic workers, mostly women and girls, especially with regard to their lack of access to basic social services, their unfavourable working conditions and their wages, which are far below the minimum wage.

22. The Committee is concerned about the fact that an authorization from the Ministry of the Interior is needed before a trade union can be set up and that they can be dissolved by the Ministry. Moreover, it is a matter of concern that foreign workers are still not permitted to hold trade union offices, in spite of the Committee's recommendation to that effect in 1994.
23. The Committee is concerned that funds allocated by the State party for basic social services through its 20/20 Initiative fall far short of the minimum social expenditure required to cover such services. In this regard the Committee notes with regret that more is spent by the State party on the military and on servicing its debt than on basic social services.
24. The Committee is concerned that, in spite of the existence of legislation banning the practice of female genital mutilation (FGM), FGM is still practised with impunity by certain ethnic groups and in certain regions.
25. The Committee is concerned about the lack of effective measures taken, including the enforcement of existing legislation, to eliminate all forms of violence against women.
26. The Committee is concerned about the rise in clandestine abortions, unwanted pregnancies and the high rate of maternal mortality which is as high as 500 deaths per 100,000 live births.
27. The Committee is concerned about the increasing number of street children, especially in Dakar, and about the high incidence of child labour, especially in rural areas, and the exploitation of children engaged in agriculture, domestic work, informal trading and other services. The Committee is also concerned about the low remuneration that children receive which is well below the minimum wage.
28. The Committee is concerned about the high incidence of infant mortality, especially in rural areas. The Committee is also concerned that many children in the rural areas suffer from serious malnutrition and retarded growth.
29. The Committee is concerned that in 2000, 30 per cent of the Senegalese people were living in absolute poverty and that 70 per cent of the poor came from the countryside and were women, and that poverty is on the increase.
30. The Committee is concerned about the acute shortage of housing in Senegal and about the State party's new policy of not building any more social housing units for low income, disadvantaged and marginalized groups. The Committee is also concerned about the high interest rate on housing credit which seriously restricts access to adequate housing for a large number of people.
31. The Committee is concerned about the reportedly growing number of forced evictions in Senegal, especially in Dakar. The Committee is particularly concerned about the plight of some 450 households in the Diamaguène district and some 5,000 inhabitants of the Baraka slum who, in spite of having occupied their dwellings for a long time, are threatened with eviction by the State party.

32. The Committee is concerned about the situation of small farmers who are unable to repay their debts and are denied credit facilities at reasonable rates so that they cannot earn a living for themselves and their family.

33. The Committee is concerned that the asylum-seekers who, while waiting for a decision on their status, which takes a long time, are denied access to basic social services, including hospital care. The Committee is also concerned that children of asylum-seekers who have not yet been granted refugee status cannot enrol in school unless they are able to pay tuition fees.

34. The Committee is concerned about the low rate of primary school enrolment and about the high rate of illiteracy in Senegal, especially among women. The Committee is also concerned that the State party is no longer always hiring trained teachers, but employs at lower wages unskilled teachers as volunteers, and that the number of drop-outs among primary and secondary school pupils is significant.

E. Suggestions and recommendations

35. The Committee urges the State party to take all necessary measures, including the enactment of legislation, in order to ensure that all the people of the State party enjoy, without any discrimination, the economic, social and cultural rights specified in the Covenant.

36. The Committee urges the State party to formulate and adopt a comprehensive plan of action for human rights, as called for in Part II, paragraph 71, of the Vienna Declaration and Programme of Action.

37. The Committee encourages the State party to ensure that national human rights institutions do not concentrate solely on civil and political rights, but accord equal weight and attention to economic, social and cultural rights.

38. The Committee calls upon the State party to take remedial action to address the inequality of and discrimination against women and girls in Senegal, both in law and in practice. In particular, the Committee urges the State party to consider repealing article 152 of the Family Code.

39. The Committee urges the State party to enact or enforce legislation prohibiting customary practices such as polygamy, FGM, restricted access by women to land, property, housing and credit facilities and the inability to inherit land and to take measures to combat such practices by all means, including national education programmes.

40. The Committee urges the State party to take immediate measures to address the problem of discrimination against women in access to employment and to monitor closely, both in the private and public sectors, the implementation of the law on maternity leave.

41. The Committee recommends that the State party enact specific legislation and adopt measures necessary to ensure better living conditions for people with disabilities.

42. The Committee recommends that the State party take effective action to reduce the unemployment rate by, *inter alia*, providing training for young people in urban areas and by conducting regular reviews of the minimum wage levels in order to enable workers to attain an adequate standard of living for themselves and their families.

43. The Committee calls upon the State party to ensure that all workers, including domestic workers, have access to basic social services and are paid decent wages and that labour regulations governing their hours of work and safe conditions of work are scrupulously observed.

44. The Committee calls upon the State party to consider repealing the existing provisions of the Labour Code whereby (a) foreign workers are barred from holding trade union offices in Senegal; (b) the Ministry of the Interior is able to dissolve trade unions; and (c) an authorization is required from the Ministry before a trade union can legally exist.

45. The Committee urges the State party to allocate more funds for its 20/20 Initiative, designed as a basic social safety net for the disadvantaged and marginalized groups of society.

46. The Committee calls upon the State party to take all effective measures, including the enforcement of existing legislation and the adoption of national awareness campaigns, to eliminate all forms of violence against women.

47. The Committee urges the State party to take remedial action to address the problems of clandestine abortions, unwanted pregnancies and the high rate of maternal mortality. In this regard, the Committee urges the State party to undertake more effective reproductive and sexual health programmes in schools and colleges.

48. The Committee strongly recommends that the State party address the problem of street children and reintegrate them into mainstream society.

49. The Committee urges the State party to take effective measures to reinforce existing laws on child labour and to improve its monitoring mechanisms in order to ensure that those laws are enforced and to protect children from economic exploitation. In this regard, the Committee urges the State party to consider ratifying the ILO Worst Forms of Child Labour Convention, 1999 (No. 182).

50. The Committee urges the State party to integrate fully human rights, including economic, social and cultural rights, in the formulation of the Poverty Reduction Strategy Paper (PRSP) which is being prepared by the State party. In this regard, the Committee refers the State party to the Committee's statement on poverty of 4 May 2001 and encourages the State party to ensure that its PRSP is prepared in full consultation with civil society.

51. The Committee urges the State party to review its current housing policies and, in particular, to reintroduce a programme of social housing, especially for the disadvantaged and marginalized groups, and to ensure reasonable access to housing credit for those from lower income groups.
52. The Committee urges the State party to undertake a systematic and comprehensive review of its relevant legislation, administrative policies and procedures to ensure that they comply with the guidelines of the Committee specified in general comments Nos. 4 and 7 in relation to forced evictions.
53. The Committee calls upon the State party to provide to small farmers in Senegal credit facilities at reasonably low rates so that they may carry out their activities and earn a living for themselves and their families.
54. The Committee urges the State party to expedite the consideration of the applications of asylum-seekers and to provide them with basic social services, including hospital care and free education for their children.
55. The Committee calls upon the State party to make safe drinking water accessible to the entire population and to combat the problems of malnutrition, especially among children, hygiene and water-related diseases.
56. The Committee recommends that the State party address the shortage of hospitals and health centres and the unequal distribution of health facilities in the country. In this regard, the Committee urges the State party to provide health services in the various regions of the country in order to provide incentives for doctors and nurses to move out of Dakar and Thiès.
57. The Committee recommends that the State party establish literacy programmes for adults and intensify its efforts to increase the school attendance of children, especially at the primary level, and address the problem of drop-outs among primary and secondary pupils.
58. The Committee urges the State party to review its current practice of employing unskilled teachers instead of hiring trained ones.
59. The Committee urges the State party to implement a comprehensive National Plan for Education for All, as anticipated by paragraph 16 of the Dakar Framework for Action, taking into account the Committee's general comments Nos. 11 and 13.
60. The Committee strongly recommends that Senegal's obligations under the Covenant be taken into account in all aspects of its negotiations with international financial institutions, such as the International Monetary Fund and the World Bank, to ensure that the economic, social and cultural rights of Senegalese and, in particular, of the most vulnerable groups of society, are duly protected.

61. The Committee urges the State party to create a solid database in order to target and monitor its progress in implementing each of the rights contained in the Covenant, as well as to draw upon and provide information to the Committee regarding the enjoyment of each of the Covenant rights.

62. The Committee urges the State party to include in its third periodic report, which should be submitted by 30 June 2003, updated and detailed information, backed up by statistical data, on the concrete measures it has taken to address the principal subjects of concern and to implement the recommendations, contained in the concluding observations of the Committee. The Committee also recommends that the State party avail itself of technical assistance from the Office of the United Nations High Commissioner for Human Rights and the relevant United Nations specialized agencies in the preparation of the report.

63. The Committee confirms that, if the State party so wishes, it is willing to undertake a country mission to Senegal, with a view to helping the State party implement its obligations under the Covenant, in the light of these concluding observations.

64. The Committee requests that the State party disseminate these concluding observations as widely as possible among the State institutions concerned, as well as its citizens.



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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT**

**Concluding observations of the Committee on Economic,
Social and Cultural Rights**

SYRIAN ARAB REPUBLIC

1. The Committee on Economic, Social and Cultural Rights considered the third periodic report of the Syrian Arab Republic on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/1994/104/Add.23) at its 34th and 35th meetings (E/C.12/2001/SR.34 and 35), held on 15 and 16 August 2001, and adopted, at its 53rd meeting (E/C.12/2001/SR.53), held on 28 August 2001, the following concluding observations.

A. Introduction

2. The Committee welcomes the third periodic report of the State party, as well as the useful dialogue that took place with the delegation. The Committee also takes note of the information contained in the letter of 24 August 2001 from the Permanent Mission of the State party in Geneva addressed to the Chairperson.

3. The Committee regrets that a considerable number of its written and oral questions remained unanswered, owing to a lack of detailed information in the State party's report, the written replies and the oral responses during the dialogue. The Committee also regrets that the delegation of the State party was not composed of officials responsible for the relevant rights of the Covenant, a fact which had a negative impact on the quality of the dialogue.

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B. Positive aspects

4. The Committee appreciates the State party's efforts to improve the enjoyment of economic, social and cultural rights by its inhabitants. In particular, the Committee takes note of the State party's goals and objectives in the context of the United Nations Development Assistance Framework (UNDAF), which aims at improving living standards by reducing socio-economic and regional disparities and strengthening institutional capacities to meet development challenges.
5. The Committee notes with appreciation that the State party is also cooperating with international organizations and United Nations specialized agencies to reduce poverty and to work towards further realization of the right to food and the right to health.
6. The Committee welcomes the State party's efforts to address the acute problem of water shortage, as well as its efforts to enhance public awareness of this problem.
7. The Committee welcomes the fact that infant mortality has decreased and that life expectancy has increased.
8. The Committee notes with satisfaction the measures taken by the State party to provide health services and education for nomadic peoples, such as mobile first aid facilities and dispensaries and mobile schools and libraries.
9. The Committee welcomes the measures taken by the State party pursuant to the Dakar Framework for Action to adopt a National Education For All Plan.

C. Factors and difficulties impeding the implementation of the Covenant

10. The Committee notes the State party's statement that, owing to the continuing foreign occupation of part of its territory, it feels compelled to allocate a considerable part of its resources to national defence.
11. The Committee recognizes that the efforts of the State party to comply with its obligations under the Covenant are impeded by the high foreign debt/GDP ratio, and that this has adversely affected its capacity to enhance the enjoyment of economic, social and cultural rights by the population.
12. The Committee notes that the prevalence of certain traditions, customs and cultural practices in the State party continues to impede the full enjoyment by women and girls of their rights under the Covenant.

D. Principal subjects of concern

13. The Committee is concerned about discrimination against certain minority groups in the Syrian Arab Republic on the basis of their non-Arab heritage, including those groups that have been living in the territory of the State party for many generations.

14. The Committee expresses its concern about the persisting discrimination in the political, social and economic spheres of life against women in Syrian society, which is particularly reflected in limited participation by women in the political and economic decision-making process, a low legal age of marriage for girls, more severe punishment of women for adultery and "honour crimes", and unequal treatment insofar as personal property and social security laws are concerned. The Committee regrets that the State party has not adopted any significant legislative or administrative measures to eliminate this discrimination, nor ratified the Convention on the Elimination of All Forms of Discrimination against Women.

15. The Committee is also concerned about the living conditions of refugees and stateless persons in the Syrian Arab Republic, as well as the fact that the State party has not ratified the 1951 Convention relating to the Status of Refugees nor its 1967 Protocol. The Committee regrets the delegation's lack of sufficient information on this matter.

16. The Committee is concerned about the relatively high unemployment rate in the State party, which has been estimated to be between 10 and 25 per cent, and regrets that the State party's delegation was not able to provide sufficient statistical data to clarify this point of concern.

17. The Committee regrets that the State party has not provided sufficient information on the incidence of child labour. Moreover, the Committee is deeply concerned that the minimum working age is too low and that children working in family businesses and the agricultural sector are not protected by the relevant labour legislation.

18. The Committee expresses its concern about the practice of forced labour in prisons, especially by minors and those who have been incarcerated for vagrancy and other petty crimes.

19. The Committee also expresses its concern that the minimum wage has not been adjusted in recent years and that it has therefore become insufficient to provide a basic and adequate standard of living for workers and their families.

20. The Committee is also concerned that the right to establish independent trade unions is obstructed by the State party, as trade unions are obliged to register with the General Federation of Trade Unions which is closely linked to the governmental structure.

21. The Committee also expresses concern about the restrictions in practice reported by the ILO with regard to the right to strike, such as the imposition of sanctions, including imprisonment, which constitutes non-compliance with the State party's obligation regarding article 8 of the Covenant.

22. The Committee is concerned about the absence of unemployment benefits, which runs counter to the State party's obligation under the Covenant to realize progressively the right to just and favourable conditions of work and to social security.

23. The Committee is also concerned about the disparity in the provision of social benefits and accident compensation to Syrian nationals, refugees and stateless persons.

24. The Committee expresses its concern about the persistent occurrence of domestic violence against both women and children and the lack of legislation to criminalize such violence. Moreover, the Committee is concerned that there is no law against spousal rape.

25. The Committee is concerned about the incidence of poverty in the State party, which, according to alternative sources, affects about one third of the population. The Committee also regrets the absence of official statistical data on this subject.

26. The Committee regrets the lack of comparative statistical data on the State party's implementation of the right to health, as well as the fact that it did not receive replies to a considerable number of questions on the right to health in the list of issues.

E. Suggestions and recommendations

27. In light of paragraph 71 of the 1993 Vienna Declaration and Programme of Action and the conclusions of the Eighth Workshop on Regional Cooperation for the Promotion and Protection of Human Rights in the Asia-Pacific Region (Beijing, March 2000), the Committee recommends that the State party prepare a comprehensive national plan of action in relation to the implementation of its obligations under international human rights treaties, including the Covenant. The Committee requests the State party to annex a copy of its national human rights plan of action to its fourth periodic report and to provide information on its implementation.

28. The Committee encourages the State party to establish as soon as possible a national human rights institution which conforms to the 1991 Paris Principles.

29. The Committee strongly recommends that the State party's obligations under the Covenant be taken into account in all aspects of its negotiations with international financial institutions, such as the International Monetary Fund, the World Bank and the World Trade Organization, to ensure that economic, social and cultural rights, particularly of the most vulnerable groups, are duly protected.

30. The Committee strongly recommends that the State party take effective measures to combat discrimination in practice against minority groups, in particular the Kurds. Such measures should be aimed especially at improving birth registration and school attendance and allowing for the use of their languages and other expressions of their culture.

31. The Committee strongly recommends that the State party take effective measures to incorporate a gender equality perspective in both legislation and in governmental policies and administrative programmes, with a view to ensuring equality of men and women and addressing in particular the problems of the low legal age of marriage for girls, more severe punishment of women for adultery and "honour crimes", and the unequal treatment of women insofar as personal, property, succession and social security laws are concerned. The Committee also encourages the State party to ratify the Convention on the Elimination of All Forms of Discrimination against Women.

32. The Committee recommends that the State party take legislative and administrative measures to ensure the enjoyment of economic, social and cultural rights by refugees and

stateless persons. The Committee urges the State party to ratify the 1951 Convention relating to the Status of Refugees, the 1967 Protocol thereto, and the 1954 Convention relating to the Status of Stateless Persons.

33. The Committee requests the State party to provide more detailed information and specific statistical data - including comparative data - on the real situation of unemployment and of child labour in the State party and on the measures it has taken to address these problems.

34. The Committee recommends that the State party take measures to prohibit the practice of forced labour in prisons, including by minors and those incarcerated for vagrancy and other petty crimes.

35. The Committee urges the State party to adjust the minimum wage from time to time, so that it provides for an adequate standard of living for workers and their families, in conformity with articles 7 and 11 of the Covenant.

36. The Committee recommends that the State party request technical assistance from the ILO for the training of labour inspectors in order to ensure better implementation of labour legislation.

37. The Committee urges the State party to take all effective measures to address the problem of child labour in family enterprises and in the agricultural sector, which runs counter to protection of the rights of the child to health and to education.

38. The Committee strongly urges the State party to ensure that the right to establish free and independent trade unions is respected, and that the right to strike can be exercised without any form of intimidation.

39. The Committee recommends that the State party take all necessary measures to guarantee - to the maximum of its available resources, as stipulated by article 2 (1) of the Covenant - that an adequate system of social security is maintained, in particular with regard to the payment of unemployment benefits. The Committee also requests that more detailed information and statistical data, including comparative data, are provided on the State party's pension system in its next periodic report.

40. The Committee strongly recommends that the State party adopt legislation and other measures to combat domestic violence and spousal rape, and vigorously implement such legislation and other measures in order to provide adequate protection for victims of such practices.

41. The Committee requests the State party to provide detailed statistical data on the level of poverty in its territory, as well as more detailed information on measures taken to reduce poverty.

42. The Committee urges the State party to provide detailed information about the housing situation in the Syrian Arab Republic, including the provision of social housing for lower income, disadvantaged and marginalized groups, the number of forced evictions and whether those evictions comply with the guidelines set out by the Committee in its general comment No. 7.
43. The Committee also requests the State party to provide replies to the written and oral questions raised by the Committee in the list of issues and during the dialogue which were left unanswered, and in particular requests comparative statistical data on the implementation of the right to health, thereby taking into account the Committee's general comment No. 14 on the right to health.
44. The Committee urges the State party to implement its comprehensive National Education For All Plan, as anticipated by paragraph 16 of the Dakar Framework for Action, taking into account the Committee's general comments Nos. 11 and 13 on the right to education and general comment No. 1 of the Committee on the Rights of the Child. The Committee also urges the State party to ratify the UNESCO Convention against Discrimination in Education of 1960.
45. The Committee strongly recommends that the State party make sure that minority groups, such as the Kurds, are able to enjoy their right to use their own language and to live in accordance with their own culture without impediments in the form of legislative or administrative arrangements imposed by the State party.
46. The Committee recommends that the State party avail itself more actively of technical assistance and cooperation from the Office of the High Commissioner for Human Rights and the relevant United Nations specialized agencies and programmes, such as UNDP and UNESCO, particularly in relation to the preparation of its fourth periodic report on the Covenant, a national human rights plan of action, the creation of a national human rights institution, and the preparation and implementation of the National Education For All Plan in accordance with the Dakar Framework for Action.
47. The Committee requests the State party to disseminate the present concluding observations widely among all levels of society and to inform the Committee of all steps taken to implement them. It also encourages the State party to consult with non-governmental organizations and other members of civil society in the preparation of its fourth periodic report.
48. Finally, the Committee requests the State party to submit its fourth periodic report by 30 June 2006, and to include in the report detailed information on the steps it has undertaken to implement the recommendations contained in the concluding observations.
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**CONSIDERATION OF REPORTS BY STATES PARTIES UNDER
ARTICLES 16 AND 17 OF THE COVENANT**

**Concluding observations of the Committee on
Economic, Social and Cultural Rights**

PANAMA

1. The Committee on Economic, Social and Cultural Rights considered the second periodic report of Panama on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/1990/6/Add.24) at its 36th meeting (E/C.12/2001/SR.36), held on 16 August 2001, and adopted, at its 51st meeting (E/C.12/2001/SR.51), held on 27 August 2001, the following concluding observations.

A. Introduction

2. The Committee welcomes the second periodic report of the State party, but regrets its submission after a four-year delay. The report was in general prepared in conformity with the Committee's guidelines, although insufficient information was provided on the implementation of articles 1 to 5 of the Covenant.

3. The Committee regrets the late submission of written responses to the list of issues sent in due time to the State party, as well as the absence of experts in the delegation that attended the examination of the report. These problems limited dramatically the opportunity for a constructive dialogue with the delegation.

B. Positive aspects

4. The Committee notes with satisfaction the enactment of laws promoting equality between men and women, such as the adoption of Act No. 4 of 1999 on equal opportunities for women and the adoption of Act No. 38 of 2001 that improves the provisions of Act No. 27 of 1995 on domestic violence. The Committee welcomes the setting up of the National Women's Council and other women's offices in various ministries as well as the active participation of organizations of civil society in this process of legal reform.

5. The Committee notes with satisfaction the significant reductions in levels of child mortality and malnutrition, and steady improvement in other indicators of human development.

6. The Committee notes with appreciation the establishment by Act No. 10 of 1997, Act No. 69 of 1998 and Executive Decree No. 194 of 1999 of a territorial demarcation (*comarca*) for the Nöbe-Buglé indigenous community, which the Committee had recommended as a result of its 1995 technical assistance mission to Panama.

7. The Committee notes with appreciation the State party's declaration of its support for the adoption of an optional protocol to the Covenant.

C. Factors and difficulties impeding the implementation of the Covenant

8. The Committee notes that economic and social underdevelopment in rural areas and inequality in access to productive resources, together with the dominant position held by the urban population in social programmes, are factors impeding government action aimed at implementing the Covenant.

D. Principal subjects of concern

9. The Committee regrets that legislation aimed at the incorporation of the Covenant directly into Panama's domestic legal system has not been adopted and that as a result the Covenant cannot be invoked before the internal authorities.

10. The Committee regrets the lack of a national plan of action for human rights prepared in accordance with the Vienna Declaration and Programme of Action.

11. Notwithstanding the important number of legal instruments and other measures adopted by the State party to ensure gender equality, the Committee is concerned about the flagrant inequality of wages for equal work and about the significantly higher rates of unemployment among women.

12. Notwithstanding the absence of legal discrimination and the rights granted to indigenous communities by the Constitution, the Committee is deeply concerned about the persisting disadvantage faced in practice by members of indigenous communities in Panama, and in particular about the marked disparities in the levels of poverty and literacy and access to water, employment, health, education and other basic social services. The Committee is also concerned that the issue of land rights of indigenous peoples has not been resolved in many cases and that

their land rights are threatened by mining and cattle ranching activities which have been undertaken with the approval of the State party and have resulted in the displacement of indigenous peoples from their traditional ancestral and agricultural lands.

13. The Committee is especially concerned that the minimum wage is not sufficient to provide for the basic needs of the worker's family, and that payment of that minimum wage is generally not respected in practice.

14. The Committee is concerned about the limited applicability of labour laws in the Colón Free Zone and the resulting limits on the protection of workers against dismissal or trade union activity. It is also concerned about high rates of unemployment in the surrounding area.

15. The Committee is concerned about the lack of a sufficient number of labour inspectors and the reported widespread use of "blank" contracts and temporary work contracts, which avoid the protection and benefits that the law requires for persons employed under longer-term contracts. It is also concerned about legislation setting excessively high requirements for the establishment of employer organizations and trade unions or their branches.

16. The Committee is concerned about the persistence of domestic violence and the inability of the State party to apply the existing legislation. It is also concerned about cases of sexual harassment and the high rate of murder suffered by women.

17. The Committee is deeply concerned about the persistent problem of child labour, especially in the rural areas, and that the minimum age for employment is under 12 years in agricultural and domestic services. The Committee is also concerned about the lack of effective measures taken to protect children against sexual violence and other forms of exploitation.

18. The Committee is concerned about the high incidence of poverty, especially in the rural areas. In this regard, the Committee is concerned about the State party's economic and social policies, which are strongly biased in favour of urban and higher income groups and which have reportedly resulted in resource misallocation and wastage and ineffective social programmes for disadvantaged and marginalized groups.

19. The Committee is concerned about the reported lack of social housing and in particular about the many different programmes and initiatives that exist in the field of housing, which are not integrated into a coherent national strategy. The Committee is also concerned about the lack of information concerning the extent to which its 1995 recommendations have been implemented, especially with regard to the need to take into account the opinions of those affected by forced evictions, in line with its general comment No. 7.

20. The Committee notes with concern that the significant progress achieved in reducing child mortality has not been accompanied by a similar reduction in the rate of maternal mortality, which remained stable between 1980 and 1997. The Committee is also concerned about respect for the rights of women with regard to reproductive and sexual health and in particular about the high rates of illegal abortion and early pregnancy.

21. The Committee considers that the growing number of HIV/AIDS cases registered during the last decade constitutes a serious health problem.
22. The Committee remains concerned about the low rates of literacy, especially among women.
23. The Committee is concerned about the inadequacy of resources allocated to address the problems of primary and secondary education.
24. The Committee regrets the absence of references in the second periodic report to action taken in response to the Committee's recommendations adopted upon the examination of the initial report of Panama.

E. Suggestions and recommendations

25. The Committee urges the State party to ensure that the provisions of the Covenant are directly applicable in the domestic legal order, so that they can be invoked before the courts.
26. The Committee strongly recommends that a national plan of action for human rights be prepared, in accordance with the Vienna Declaration and Programme of Action. The Committee requests the State party to annex a copy of the national plan of action to its third periodic report to the Committee, and to explain in its report how the plan promotes and protects economic, social and cultural rights.
27. The Committee requests the State party to provide, in its third periodic report, detailed information about any government policies, programmes and measures adopted to assist in the effective implementation of the legislation on equality between women and men.
28. The Committee reiterates its recommendation encouraging the State party to consider ratifying the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169). It urges the State party to pay particular attention to improving poverty and literacy rates and access to water, employment, health, education and other basic social services for indigenous peoples. The Committee recommends that the issue of land rights of indigenous peoples be fully resolved so as to avoid their coming under threat by mining and cattle ranching activities that result in their displacement from their traditional ancestral and agricultural lands.
29. The Committee encourages the State party to take action to lower the requirements for the setting up of employer organizations or trade unions and their branches.
30. The Committee recommends that the State party take effective measures to combat the high rates of unemployment, in particular for women and in the area surrounding the Colón Free Zone. It also recommends that the limited applicability of labour laws in the Colón Free Zone be reviewed.
31. The Committee encourages the State party to act on its stated commitment to develop effective programmes and policies to combat poverty and to achieve the goal of reducing the poverty rate from 37 per cent to 30 per cent of the population by 2003. In this regard, the

Committee urges the State party to address the persistent problem of dramatic income inequality. The Committee also urges the State party to review its various initiatives designed to help reduce the high rate of poverty to ensure that they fully integrate human rights, including economic, social and cultural rights, in the light of the Committee's "Statement on poverty and the International Covenant on Economic, Social and Cultural Rights" of May 2001.

32. The Committee urges the State party to ensure that the minimum wage is increased regularly with reference to the cost of living so as to guarantee increasingly an adequate standard of living to workers and their families, and to ensure that the rules regarding the minimum wage are respected in practice.

33. With regard to Act No. 30 of 2001, the Committee strongly recommends that the State party take effective measures to disseminate and implement vigorously existing legislation on domestic violence, that police and other law enforcement officials be given better training to this end, and that information be provided in the third periodic report on the number and outcome of court cases related to domestic violence.

34. The Committee urges the State party to take all necessary measures, legislative or otherwise, to address the persistent problem of child labour, especially in agriculture and domestic services. In this regard, the Committee urges the State party to consider ratifying the ILO Worst Forms of Child Labour Convention, 1999 (No. 182). The Committee also calls upon the State party to take remedial action to protect children against sexual abuse and all forms of exploitation.

35. The Committee recommends that the State party collect comprehensive data and establish a coherent national strategy on housing, especially social housing. In this regard, the Committee urges the State party to take all appropriate measures in order to ensure the availability of affordable housing units, especially for the low-income, disadvantaged and marginalized groups.

36. The Committee requests the State party to provide detailed information in its third periodic report about the number and nature of forced evictions, in accordance with general comment No. 7 of the Committee. It requests that information be provided on the implementation of recommendations formulated by the Committee as a result of its 1995 technical assistance mission.

37. The Committee calls upon the State party to take urgent measures aimed at reducing the excessively high maternal mortality rate, and to expand the availability and accessibility of reproductive and sexual health information and services, so as to encourage a reduction in the rates of illegal abortion and early pregnancy.

38. The Committee requests the State party to provide, in its third periodic report, detailed information on the number of persons living with HIV/AIDS and on the measures taken for the prevention, treatment and care of those infected, affected, or particularly vulnerable.

39. The Committee encourages the State party to refer, for its third periodic report, to its general comment No. 14¹ for assistance on how to report on its implementation of article 12 of the Covenant. The Committee requests the State party to provide detailed information in its third periodic report on the cost, affordability and availability – particularly in rural areas and for marginalized groups – of the expanded provision of outpatient and home care services that have reportedly accompanied the reduction in the number of beds available for hospital-based psychiatric treatment.

40. The Committee urges the State party to implement a comprehensive national plan of education for all, as required by paragraph 16 of the Dakar Framework for Action, taking into account the Committee's general comments Nos. 11 and 13, as well as general comment No. 1 of the Committee on the Rights of the Child on the aims of education. The Committee recommends that the State party establish literacy programmes for adults, especially for indigenous peoples and in the rural areas. The Committee requests the State party also to provide in its third periodic report detailed information about the measures taken to increase the quality of and promote equal opportunity for all in education, including in vocational education. The Committee encourages the State party to consider ratifying the UNESCO Convention against Discrimination in Education of 1960.

41. The Committee requests the State party to take measures aimed at increasing the resources available to fight illiteracy and promote primary and secondary education, as well as to provide information in its third periodic report about the allocation of resources to different levels and types of education.

42. The Committee requests the State party to disseminate its concluding observations widely among all levels of society and to inform the Committee of all steps taken to implement them. It also encourages the State party to consult with non-governmental organizations and other members of civil society in the preparation of its third periodic report.

43. Finally, the Committee requests the State party to submit its third periodic report by 30 June, 2004, and to include in the report detailed information on the steps it has undertaken to implement the recommendations contained in the present concluding observations.

¹ Particularly to paragraphs 43 and 44 and paragraphs 57 and 58 dealing with core obligations and the setting of benchmarks.



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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT**

**Concluding observations of the Committee on
Economic, Social and Cultural Rights**

UKRAINE

1. The Committee considered the fourth periodic report of Ukraine on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/4/Add.2) at its 40th and 41st meetings (E/C.12/2001/SR.40 and 41), held on 20 August 2001, and adopted, at its 54th meeting (E/C.12/2001/SR.54), held on 29 August 2001, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the report of the State party as well as its written replies to the list of issues (E/C.12/Q/UKR/2). The Committee appreciates the frank dialogue that took place and the delegation's efforts to address the questions raised during the discussion.

B. Positive aspects

3. The Committee notes with satisfaction the recent enactment of legislation relating to the protection of human rights, including the Law on Refugees, the Law on Immigration, the Law on Citizenship and the Penal Code.

4. The Committee welcomes the national plan of action to improve the situation of women and enhance their role in society.

5. The Committee welcomes the establishment of the office of the Authorized Human Rights Representative of the Verkhovna Rada (Supreme Council), which has considered many complaints in relation to economic, social and cultural rights.

6. The Committee further welcomes the State party's willingness, as expressed by the delegation during the dialogue, to cooperate with United Nations specialized agencies and other international organizations in such areas as poverty reduction, gender equality, integration of the Crimean Tatars, women and children's health, the review of human rights legislation, support for the Authorized Human Rights Representative of the Verkhovna Rada, and the trafficking of persons.

7. The Committee welcomes the establishment by the State party of a fund for social insurance.

C. Factors and difficulties impeding the implementation of the Covenant

8. The Committee notes that the State party's transition to a market economy has had a negative impact on the implementation of the rights contained in the Covenant.

D. Principal subjects of concern

9. The Committee is concerned about the high level of poverty in the country and the inadequate measures taken by the State party to combat it. This is exacerbated by, among other things, the privatization policies that the State party has implemented, high unemployment, the low level of pensions and wages, a legal minimum wage which is below the recognized subsistence level, and the scarcity of adequate housing.

10. The Committee continues to express concern at the situation of women in society and the insufficient measures taken by the State party to eliminate discrimination against them. Most low-paid workers and 80 per cent of the unemployed are women. They are also frequently victims of violence in the family and of sexual harassment in the workplace.

11. The Committee is concerned at the large-scale trafficking and commercial sexual exploitation of women and children.

12. The Committee notes with concern de facto discrimination against ethnic minorities, such as the Crimean Tatars and Roma, and harassment of foreigners of African origin by law enforcement officials.

13. The Committee is concerned about the large number of children, especially newborns and children with disabilities, who are abandoned or are otherwise deprived of a family environment, and regrets the absence of an effective strategy to address this phenomenon.

14. The Committee expresses its concern about the scale of the arrears in the payment of wages and pensions, depriving the people concerned of the means for survival.

15. The Committee notes with deep concern the high number of accidents owing to inadequate health and safety standards in the workplace and obsolete industrial equipment, particularly in the mining sector, as well as the insufficient efforts of the State party to enforce the existing standards.

16. The Committee is concerned about restrictions on trade union freedoms, including the right of everyone to join a trade union of his/her choice, as well as acts of intimidation by local authorities against independent trade unions and their leaders.

17. The Committee notes with concern that the budgets allocated for education and scientific research have fallen sharply, leading to a deterioration in the quality of education. The Committee is particularly concerned about obsolete teaching materials and equipment in schools and colleges, and the low levels of remuneration for teachers.

18. The Committee is concerned at the deterioration in the health of the most vulnerable groups, especially women and children, and in the quality of health services. The Committee notes with concern the rise in the incidence of sexually transmitted diseases (STD) and the spread of HIV/AIDS. It is also concerned about the high incidence of alcohol abuse and tobacco use, especially among persons under 18 years.

E. Suggestions and recommendations

19. The Committee recommends that the State party evaluate the economic reform policies with respect to their impact on poverty, and make efforts to adjust its programmes in a manner consistent with safeguarding the economic, social and cultural rights of the most vulnerable segments of society. In this regard, it draws the attention of the State party to the Committee's statement on poverty adopted on 4 May 2001.

20. The Committee recommends that the State party take into account its obligations under the Covenant in all aspects of its negotiations with international financial institutions, thus ensuring that economic, social and cultural rights, particularly of the most vulnerable groups, are duly protected.

21. While welcoming the delegation's confirmation of the State party's intention to prepare a human rights plan of action with the assistance of the Office of the High Commissioner for Human Rights, the Committee recommends that the State party elaborate, through an open and consultative process, a comprehensive national plan of action aimed at implementing its obligations under international human rights instruments, including the Covenant. The Committee requests the State party to annex a copy of the national human rights plan of action to its fifth periodic report, and to inform the Committee about the progress made in its implementation.

22. The Committee recommends that the State party strengthen the provisions in its legal order with respect to the prohibition of discrimination in accordance with article 2 (2) of the Covenant, in particular on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Recalling the Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169), the State party should take all necessary steps to prevent incidents of racially motivated ill-treatment and ensure that timely and thorough investigations and effective prosecutions are carried out.
23. The Committee calls upon the State party to take all effective legal measures to prohibit gender discrimination in all fields of civil, political, economic, social and cultural life.
24. The Committee recommends that the State party include in subsequent reports comparative data on levels of employment, including the representation of women at the various administrative levels, and in areas such as law enforcement, the legal profession and the judiciary, stressing the progress made during the reporting period.
25. The Committee calls upon the State party to ensure that employees are remunerated in a timely manner and that legislation on minimum wages is fully enforced.
26. The Committee recommends that the State party ensure that adequate resources are allocated for workplace accident prevention programmes, and that it continue to strengthen the resources and powers of the labour inspectorate. The Committee recommends that the State party consider ratifying the ILO Labour Inspection Convention, 1947 (No. 81).
27. The Committee emphasizes that the right of trade unions to function freely shall be subject to no restrictions, other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others. The Committee requests the State party to ensure that such restrictions contained in the labour law are fully in line with article 8 of the Covenant, and that acts of intimidation against trade unions and their leaders are prohibited.
28. The Committee recommends that the State party adopt all appropriate measures to prevent and combat incidents of domestic violence and sexual harassment, as well as appropriate measures to reduce unemployment among women.
29. The Committee encourages the State party to strengthen its efforts to combat the trafficking and commercial sexual exploitation of women and children. It recommends that the State party vigorously pursue the enforcement of criminal laws in this regard; ensure that victims are not penalized and are provided with rehabilitation; ensure that the National Coordination Council against Trafficking is adequately resourced and staffed; and reinforce its cooperation with international and regional organizations, as well as on a bilateral basis. The Committee recommends that the State party, in its fifth periodic report, provide full information on the trafficking and commercial sexual exploitation of women and children, including data on the scale of the phenomenon.

30. The Committee urges the State party to take effective measures, including the development of strategies and awareness-raising activities, aimed at reducing and preventing the abandonment of children. In particular, the Committee recommends that the State party promote, through counselling and community-based programmes, the family as the best environment for the child and assist parents to keep their children at home. Moreover, it is recommended that the State party take effective measures to increase and strengthen family-based alternative care, so that children are placed in institutions only as a last resort.
31. The Committee recommends that the State party ensure that its commitment to primary health care is met by adequate allocation of resources and that all persons, especially from the most vulnerable groups, have access to health care. The Committee suggests that the State party establish comprehensive reproductive health programmes, as well as measures to ensure that abortion is not perceived as a method of contraception. It further recommends that adolescents have access to and be provided with reproductive health education, as well as with STD and HIV/AIDS prevention programmes. The Committee recommends that the State party provide children with accurate and objective information about alcohol and tobacco use, and discourage activities on public mass media promoting their consumption.
32. The Committee recommends that the State party take all necessary measures to allocate the required resources to implement effectively the 1991 Law on Education. The Committee recommends that the State party ensure that general comments No. 11 on plans of action for primary education and No. 13 on the right to education, as well as general comment No. 1 of the Committee on the Rights of the Child on the aim of education, are duly taken into consideration when elaborating its educational policies. The Committee recommends that the State party promote the participation of parents and communities, especially ethnic minorities, in school governance in order to improve enrolment rates and monitor the quality of education.
33. The Committee encourages the State party to consider ratifying the 1951 Convention relating to the Status of Refugees as well as its 1967 Protocol, the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.
34. The Committee recommends that the State party develop an ongoing programme for the dissemination of information regarding the content of the Covenant and its implementation among the public, civil society, and all sectors and levels of administration. Moreover, the Committee recommends that the State party develop systematic and ongoing training programmes on the provisions of the Covenant for professional groups, including parliamentarians, judges, lawyers and local government officials.
35. Finally, the Committee requests the State party to ensure the wide dissemination in Ukrainian society at all levels of the present concluding observations and to inform the Committee of steps taken to implement the recommendations in its fifth periodic report, to be submitted by 30 June 2006.



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**Concluding observations of the Committee on Economic,
Social and Cultural Rights**

NEPAL

1. The Committee on Economic, Social and Cultural Rights considered the initial report of Nepal on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/1990/5/Add.45) at its 44th, 45th and 46th meetings (E/C.12/2001/SR.44-46), held on 22 and 23 August 2001, and adopted, at its 55th meeting (E/C.12/2001/SR.55), held on 29 August 2001, the following concluding observations.

A. Introduction

2. The Committee welcomes the initial report of the State party, which was in general prepared in conformity with the Committee's guidelines, as well as the written replies to the Committee's list of issues (E/C.12/Q/NEP/1). However, it regrets the nine-year delay in the submission of the initial report as well as the delay in the submission of the written replies to the Committee's list of issues.

3. The Committee notes with appreciation the open and constructive dialogue with the delegation and its willingness to answer the questions raised by the Committee but regrets the absence of experts to answer all the technical questions.

B. Positive aspects

4. The Committee notes with satisfaction the assertion by the State party that the rights contained in the Covenant could be justiciable. It further notes with satisfaction the extraordinary power of the Supreme Court to issue orders for the enforcement of the fundamental rights of the citizens.

5. The Committee notes with appreciation that Nepal signed in 1996 a technical cooperation project agreement and a memorandum of understanding with the Office of the High Commissioner for Human Rights and that under the project a number of activities have been undertaken on the administration of justice, treaty accession, reporting obligations, strengthening of the National Human Rights Commission, compilation and publication in the Nepali language of international instruments ratified by Nepal, and support to NGOs.

6. The Committee welcomes the establishment of an independent National Human Rights Commission, as well as the establishment of a committee, under the chairmanship of the Chief Secretary of the Cabinet Secretariat, to execute the plan of action for human rights in accordance with the Vienna Declaration and Programme of Action.

7. The Committee welcomes the establishment in 1995 of the Ministry of Women, Children and Social Welfare.

8. The Committee notes with satisfaction the adoption of the Anti-Trafficking Act to combat trafficking in women and children, as well as the implementation of measures at national and regional level for this purpose.

9. The Committee welcomes the abolishment in 2000 of kamaiya, the system of agricultural bonded labour.

10. The Committee notes that the State party has adopted measures to abolish and punish the practices of polygamy, dowry, Deuki (a tradition of dedicating girls to a god or goddess; the girls become "temple prostitutes") and prostitution among the Bedi caste.

C. Factors and difficulties impeding the implementation of the Covenant

11. The Committee takes note that the efforts of the State party to comply with its obligations under the Covenant are impeded by the high rate of population growth, the slow-down in economic growth, foreign debt, the effect of some aspects of the structural adjustment programmes it has adopted as well as the Maoist insurgency, which have negatively affected the enjoyment of economic, social and cultural rights by the population, and especially the most vulnerable and marginalized groups of society.

12. The Committee also acknowledges that the prevalence of certain customary traditions in Nepal continues to impede the full enjoyment by women and girls of their rights under the Covenant.

13. The Committee notes that the State party's national economy depends heavily on agriculture in the rural areas.

D. Principal subjects of concern

14. The Committee regrets the unclear status of the Covenant in the domestic legal order of the State party and the lack of case law with respect to any of the rights under the Covenant.

15. The Committee notes that the State party has adopted a series of plans on several human rights issues but regrets the lack of benchmarks to illustrate the extent or degree of achievements.

16. The Committee is deeply concerned about the extent of poverty in Nepal, in particular in rural areas where poverty and discrimination against women are most pronounced. In this regard, it notes that the targets set by the Ninth Plan, which aim at the progressive reduction of the poverty rate from 42 per cent to 32 per cent, were not reached. Further, it notes that the Poverty Alleviation Commission has not yet been established.

17. The Committee notes with concern the legal inequalities between women and men in the field of inheritance, the regime of shared assets in marriage, divorce, child custody in case of divorce and remarriage, and the conferring of nationality to children on equal terms. It expresses its concern also about the de facto inequality that exists between men and women in the Nepalese society, despite legislative guarantees of equality. It further notes with concern the low representation of women in public service, the high female illiteracy rate and the unequal wages for equal work.

18. The Committee is deeply concerned at the high number of women and girls being trafficked for prostitution. The Committee also regrets the continuation of polygamy and the practices of dowry, Deuki and prostitution among the Bedi caste, particularly in rural areas.

19. The Committee is concerned at the high rate of domestic violence and the absence of specific legislation in this field.

20. The Committee is concerned at the high unemployment and underemployment rates in Nepal and about the lack of skills-oriented education.

21. The Committee notes with concern that land and agrarian reforms have still not been addressed properly and that tenants therefore have not obtained security of tenure, and that a great number of peasants do not yet possess any land.

22. The Committee is concerned that although the system of agricultural bonded labour known as Kamaiya was abolished in July 2000, the emancipated Kamaiyas are facing many problems, including lack of housing, land, work, and education for their children.

23. The Committee is concerned that the legal minimum wage is not sufficient to provide a decent standard of living for workers and their families, in particular in the agricultural sector.

24. The Committee expresses its concern at the fact that the State party has not ratified ILO Conventions Nos. 29, 81, 87 and 182.

25. The Committee regrets that there are provisions in the existing legislation of the State party whereby "moral turpitude" a term which is not defined with sufficient precision and which can lead to arbitrary interpretations, constitutes a valid ground for removal, dismissal or disqualification from employment in the civil service.

26. The Committee expresses its concern at the high incidence of child labour in Nepal, especially in rural areas.

27. The Committee notes with regret that 29 per cent of the population has no access to safe water, 90 per cent has no access to health services and 84 per cent has no access to sanitation.

28. The Committee is concerned about the occurrence of forced evictions, such as in the cases of the people displaced by the Kulekhani and Marshynagdi hydropower projects, without adequate compensation or appropriate relocation measures.

29. The Committee notes with concern that only Tibetans who arrived in Nepal before 1990 and the Bhutanese are recognized as refugees by the authorities. It further notes that while the Tibetan refugees benefit from appropriate treatment, the Bhutanese refugees are not allowed to work, are not allowed freedom of movement outside their refugee camps, and do not have access to the same health and educational facilities as Nepalese citizens.

30. The Committee notes with concern that the State party has not acceded to the 1951 Convention relating to the Status of Refugees, the 1967 Protocol relating to the Status of Refugees, the 1954 Convention relating to the Status of Stateless Persons, or the 1961 Convention on the Reduction of Statelessness. It is also noted that the Nepalese authorities have no mechanism to deal with unaccompanied refugee children.

31. The Committee is concerned about the high incidence of infant and child mortality, especially in rural areas. It further notes that many children in rural areas suffer from malnutrition.

32. The Committee notes with deep concern the high rates of maternal mortality, especially in rural areas, owing mainly to unsafe and illegal abortions, and that female life expectancy in Nepal is lower than male life expectancy.

33. The Committee notes with alarm that abortion is absolutely illegal and is considered a criminal offence, punishable by severe sentences, and cannot be carried out even when pregnancy is life threatening or the result of incest or rape. The Committee also regrets the fact that the reproductive and sexual health programmes are not implemented because of lack of financial resources.

34. The Committee is concerned that under the current national health plan for 1997-2017 the role of the State in the development of a national health care system consistent with the structural adjustment programmes is minimized. It further notes that the mental health service in Nepal is insufficient and that there is no community mental health programme available.

35. The Committee is deeply concerned that the HIV/AIDS epidemic in the State party is spreading at an alarming rate due to commercial sex and trafficking of women and children, and sex tourism.

36. The Committee notes that the State party has initiated free primary education but is concerned that the policy of compulsory education has yet to be implemented. It further notes the great disparity in enrolment in primary schools between girls and boys, the high drop-out rate among pupils, and the low quality of education in public schools.

E. Suggestions and recommendations

37. The Committee strongly urges the State party to ensure that the Covenant is taken into full account in the formulation and implementation of all policies concerning economic, social and cultural rights and that its provisions are justiciable in fact.

38. The Committee strongly recommends that Nepal's obligations under the Covenant be taken into account in all aspects of its negotiations with international financial institutions, such as the International Monetary Fund, the World Bank and the World Trade Organization, in order to ensure that economic, social and cultural rights, particularly of the most vulnerable groups, are duly protected.

39. The Committee urges the State party to continue to develop and adopt a national plan of action for human rights, which would include economic, social and cultural rights, in accordance with the 1993 Vienna Declaration and Programme of Action and in the context of a participatory, open and consultative process. It also requests the State party to annex a copy of the plan to its second periodic report to the Committee.

40. The Committee encourages the State party to ensure that the National Human Rights Commission does not concentrate solely on civil and political rights, but accords equal weight and attention to economic, social and cultural rights.

41. The Committee recommends that Nepal explicitly take the Covenant into account in its policies, programmes and projects on poverty alleviation. It further recommends that the State party establish the Poverty Alleviation Commission. In this regard, the State party is referred to the statement on poverty adopted by the Committee on 4 May 2001.
42. The Committee urges the State party to implement more vigorously existing legislation on gender equality and to incorporate a gender equality perspective in legislation, with a view to ensuring greater equality of men and women, especially in the areas of family, employment, labour conditions and representation in public services and administration.
43. The Committee urges the State party to enact or enforce legislation prohibiting customary practices, such as polygamy, dowry, Deuki and prostitution among the Bedi caste, and restricted ownership by women of land and family property, which violate the rights of women and girl children and to take measures to combat such practices by all means, including national educational programmes.
44. The Committee recommends that the State party adopt specific legislation on domestic violence against women and children.
45. The Committee recommends that the State party enforce its legislation in an effective way and establish administrative mechanisms and monitoring systems to prevent and combat trafficking in women and children. It further recommends the strengthening of measures to allow the return, rehabilitation and reintegration into society of trafficked women.
46. The Committee urges the State party to enforce effectively legislation and programmes to put an end to discrimination, in particular with regard to access to housing, work and education, against persons belonging to the Dalits and the liberated Kamaiyas.
47. The Committee recommends that the State party take effective action to reduce the unemployment rate by, inter alia, providing skills-oriented education and training, in particular in the agricultural sector.
48. The Committee recommends that the State party review its legislation and adopt all appropriate measures with a view to continuing agrarian reform and resolving land tenure issues.
49. The Committee recommends that the minimum wage be determined on the basis of criteria for an adequate standard of living in the State party, especially for those working in the agricultural sector.
50. The Committee strongly recommends that the State party ratify all relevant ILO conventions, in particular Conventions Nos. 29, 81 and 87.
51. The Committee urges the State party to define with more precision the term "moral turpitude", so that it cannot be used arbitrarily as a ground for removal, dismissal or disqualification from employment in the civil service.

52. The Committee urges the State party to take effective measures to strengthen existing laws on child labour and to improve its monitoring mechanisms to ensure that those laws are fully enforced to protect children from economic exploitation. In this regard, the Committee urges the State party to continue its collaboration with ILO IPEC and to consider ratifying the Worst Forms of Child Labour Convention (No.182).

53. The Committee recommends that the State party provide adequate compensation and appropriate relocation measures to those who are forcibly evicted because of development projects, such as in the cases of the Kulekhani and Marshynagdi hydropower projects, in line with the Committee's general comments Nos. 4 and 7.

54. The Committee recommends that the State party acknowledge people other than those from Tibet and Bhutan as refugees and provide the same kind of treatment to all refugees. The Committee invites the State party to consider acceding to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

55. The Committee urges the State party to take remedial action to address the problems of clandestine abortions, unwanted pregnancies and the high rate of maternal mortality. In this regard, the Committee urges the State party to reinforce reproductive and sexual health programmes, in particular in rural areas, and to allow abortion when pregnancies are life threatening or a result of rape or incest.

56. The Committee requests that the State party, in its next periodic report, provide data about shorter-term health plans and more detailed information about mentally disabled persons and access to private hospitals and institutions by the more marginalized sectors of the population.

57. The Committee recommends that primary and basic education be made free and compulsory for all without discrimination on the grounds of gender, ethnicity, religion or social status.

58. The State party is urged to adopt a comprehensive National Education for All (EFA) Plan, as anticipated by paragraph 16 of the Dakar Framework of Action. When formulating and implementing its EFA Plan, the State party is urged to take into account the Committee's general comments Nos. 11 and 13 and general comment No. 1 of the Committee on the Rights of the Child, and to establish an effective monitoring system for the Plan. The State party is also encouraged to continue the technical advice and assistance from UNESCO in relation to both the formulation and implementation of its EFA Plan.

59. The Committee urges the State party to incorporate benchmarks to measure the level of achievement expected at different times within its plans of actions in various human rights-related fields so that progress can be monitored.

60. The Committee recommends that the State party ensure that projects involving privatization of water supply provide for continued, assured and affordable access to water by local communities, indigenous people, and the most disadvantaged and marginalized groups of society.

61. The Committee recommends that the State party continue the technical assistance from and cooperation with the Office of the High Commissioner for Human Rights and the relevant United Nations specialized agencies and programmes, particularly in the preparation of its second periodic report to the Committee.

62. The Committee requests the State party to disseminate its concluding observations widely among all levels of society and to inform the Committee of all steps taken in this respect. It also encourages the State party to consult with non-governmental organizations and other members of civil society in the preparation of the second periodic report.

63. Finally, the Committee requests the State party to submit its second periodic report by 30 June 2006 and to include in the report detailed information on the steps it has undertaken to implement the recommendations contained in the present concluding observations.
